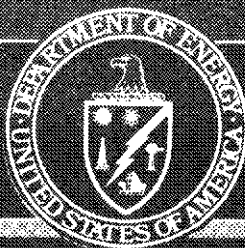


ENVIRONMENTAL



GUIDANCE

PUBLIC PARTICIPATION IN ENVIRONMENTAL RESTORATION ACTIVITIES



**U.S. DEPARTMENT OF ENERGY
OFFICE OF ENVIRONMENTAL GUIDANCE
RCRA/CERCLA DIVISION
EH-231**

NOVEMBER 1991

United States Government

Department of Energy

memorandum

DATE: November 19, 1991

REPLY TO
ATTN OF: EH-231

SUBJECT: Environmental Guidance for Public Participation in Environmental Restoration

TO: Distribution

Attached is the finalized guidance document on "*Public Participation in U.S. Department of Energy Environmental Restoration Activities*" prepared by the Office of Environmental Guidance, RCRA/CERCLA Division, EH-231.

The purpose of this document is to provide guidance on complying with statutory and regulatory requirements in conducting an effective public participation program for environmental restoration activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act, and under the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments. The attached document also summarizes guidance prepared by the Office of NEPA Oversight, EH-25, on public participation activities required under the National Environmental Policy Act (NEPA). This environmental guidance is directed to DOE Program and Field Offices with line management or oversight responsibilities for implementing public participation activities in support of DOE's environmental restoration program. Both technical and managerial personnel should find this guidance pertinent to understanding the correlation between regulatory requirements and programmatic processes in the conduct of public participation activities in DOE's environmental restoration program.

The guidance addresses existing statutory and regulatory requirements while recognizing the importance and appropriateness of going beyond specific but somewhat circumscribed public community relations provisions set forth in applicable laws and regulations in order to meet the public participation objectives of DOE's environmental restoration program. This guidance organizes public participation requirements and activities into three categories: current requirements, DOE and/or EPA supplemental guidance, and suggested additional activities. For clarification purposes, and in response to requests from the field, we have also developed detailed charts illustrating where specific public participation activities occur during the RCRA, CERCLA and NEPA processes.

This guidance document was prepared with extensive headquarters' and field element input through a series of workshops conducted in 1989, where a draft annotated outline was formulated, and through formal review of the draft guidance. The document was

closely coordinated with the Office of Environmental Restoration, EM-40, to ensure consistency with EM's developing public participation program. Input from EH-25, the Office of Public Affairs, PA-1, and the U.S. Environmental Protection Agency also has been incorporated into the final document.

If you have any questions concerning the attached guidance document, please contact Jane Powers of my RCRA/CERCLA Division at FTS 896-7301 or (202) 586-7301.

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Public Participation in Environmental Restoration Activities



NOVEMBER 1991

Prepared by

**U.S. DEPARTMENT OF ENERGY
OFFICE OF ENVIRONMENTAL GUIDANCE
RCRA/CERCLA DIVISION
(EH-231)
Washington, D.C.**

Technical support by

PACIFIC NORTHWEST LABORATORY

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Parts of this document are reproduced from the U.S. Department of Energy's *Environmental Restoration and Waste Management Five-Year Plan*, the U.S. Environmental Protection Agency's *Community Relations in Superfund: A Handbook*, and the U.S. Department of Energy Bonneville Power Administration's *Public Involvement Guide*.

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ACRONYMS

A list of the acronyms used throughout this document is provided below, along with the full name or term that the acronym represents. For terms associated with a specific environmental program, the program name is provided in parentheses.

CEQ	Council on Environmental Quality (NEPA)
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CFR	Code of Federal Regulations
CMI	Corrective Measures Implementation (RCRA)
CMS	Corrective Measures Study (RCRA)
CP	Office of Congressional and Intergovernmental Affairs
CRP	Community Relations Plan (CERCLA)
DOE	U.S. Department of Energy
EA	Environmental Assessment (NEPA)
EH	DOE Office of Environment, Safety and Health
EIS	Environmental Impact Statement (NEPA)
EM	DOE Office of Environmental Restoration and Waste Management
EPA	U.S. Environmental Protection Agency
ES&H	Environment, Safety and Health
FFA	Federal Facility Agreement
FONSI	Finding of No Significant Impact (NEPA)
FR	<i>Federal Register</i>
FS	Feasibility Study (CERCLA)
HSWA	Hazardous and Solid Waste Amendments of 1984
IAG	Interagency Agreement
NEPA	National Environmental Policy Act of 1969
NOI	Notice of Intent (NEPA)
NPL	National Priorities List (CERCLA)
OSHA	Occupational Safety and Health Administration
PA	DOE Office of Public Affairs
PSO	Program Secretarial Office
RCRA	Resource Conservation and Recovery Act of 1976
RFA	RCRA Facility Assessment (RCRA)
RFI	RCRA Facility Investigation (RCRA)
RI	Remedial Investigation (CERCLA)
RL	DOE Richland Field Office
ROD	Record of Decision (CERCLA and NEPA)
SARA	Superfund Amendments and Reauthorization Act of 1986
SEN	Secretary of Energy Notice
TAG	Technical Assistance Grants (CERCLA)

1.0 USING THIS DOCUMENT

The U.S. Department of Energy (DOE) is issuing this document, entitled *Guidance on Public Participation for U.S. Department of Energy Environmental Restoration Activities*, to summarize policy and provide guidance for public participation in environmental restoration activities at DOE Headquarters, Field Offices, facilities, and laboratories. While the Office of Environmental Restoration and Waste Management (EM) has environmental restoration responsibility for the majority of DOE sites and facilities, other DOE Project Offices have similar responsibilities at their sites and facilities. This guidance is applicable to all environmental restoration activities conducted by or for DOE under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA); the Resource Conservation and Recovery Act of 1976 (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) (corrective actions only); and the National Environmental Policy Act of 1969 (NEPA). This guidance also is applicable to CERCLA remedial action programs under the Uranium Mill Tailings Radiation Control Act of 1978 and the Formerly Utilized Sites Remedial Action Program, where DOE is the designated lead.

The primary objectives of this guidance document are as follows:

- acclimate DOE staff to a changing culture that emphasizes the importance of public participation activities
- provide direction on implementing these public participation activities
- provide consistent guidance for all DOE Field Offices and facilities.

The purpose of this document is to provide guidance on conducting effective public participation activities for environmental restoration activities under CERCLA; RCRA corrective actions under sections 3004(u), 3004(v), and 3008(h); and NEPA public participation activities. This document does not address public participation activities required for bringing active and standby DOE facilities into compliance with environmental regulations and permits, nor does it address the public participation requirements of waste management activities needed for maintaining compliance with current environmental regulations or permits.

This document is an essential tool for DOE staff responsible for carrying out public participation activities during environmental restoration. Technical staff should review and become familiar with the guidance to facilitate the coordination of technical efforts and public participation activities. Managerial staff should use the guidance to understand the new direction of DOE regarding the exchange of information with the public, and the level of effort and resources needed to create effective and credible public participation programs. This document provides statutory and regulatory requirements related to public participation for restoration activities, summarizes DOE policy, and provides guidance on what types of public participation activities to conduct and when. It identifies the components of an effective public participation program, and what to look for in developing and conducting public participation activities.

Public participation is a team effort involving the collaboration of technical staff and management, as well as staff with special expertise in community relations activities. This guidance can help to coordinate the contributions of staff throughout DOE and ensure an effective public participation program.

Section 2.0 is an overview of DOE public participation policy and program structure for environmental activities. Section 3.0 describes the statutory public participation requirements. Section 4.0 discusses the public participation activities appropriate for each technical milestone of the environmental statutes. Section 4.0 includes the activities required by law and by DOE or U.S. Environmental Protection Agency (EPA) guidance, as well as suggested additional activities. Section 5.0 discusses some of the controversial issues and problems confronting DOE facility personnel every day and provides advice on approaches for addressing these issues.

There are three appendices in this document. Appendix A provides specific information on how to conduct public participation activities. Appendix B provides resources for public participation personnel at hazardous waste facilities. Appendix C lists references.

NOTE: Throughout the document, the DOE term used for all public or community-related activities is "public participation." "Public participation" is equivalent to the term "community relations" discussed in CERCLA and "public involvement" used in RCRA and NEPA. When referring to DOE activities, "public participation" is used for all activities; when referring to activities required by a specific environmental statute, the term in the statute is used.

2.0 DOE PROGRAM OVERVIEW

As stated publicly on numerous occasions, and as testified to before the Congress, DOE views the cleanup and management of waste materials generated from DOE operations to be one of its most challenging problems. It is DOE's policy to ensure full compliance with the letter and spirit of environmental laws, regulations, and requirements. The fundamental goal is to ensure that risks to human health and safety and to the environment posed by DOE's past, present, and future operations are either eliminated or reduced to prescribed, safe levels. Central to achieving this cleanup goal is an effective public participation program. The purpose of this section is to 1) explain the philosophical framework for setting up a public participation program for DOE's environmental activities, including environmental restoration, 2) define public participation, 3) provide the regulatory framework of the applicable environmental statutes, 4) provide an organizational framework for managing a public participation program (both within DOE and among agencies), and 5) discuss the resources necessary to implement a successful public participation program.

2.1 PHILOSOPHICAL AND HISTORICAL FRAMEWORK

The philosophical roots of public participation can be traced back to two basic principles of democracy: political equality and popular sovereignty. True political equality requires that all citizens have an equal opportunity to exert influence on public policies through political activity. Political equality allows for a wide spectrum of interests and values to influence policy decisions. Popular sovereignty refers to the idea that governments are created by their citizens and as such must respond to the desires of the citizens. A basic assumption of both principles is that citizens have the right and duty to influence the political decisions that affect them.

Over the last several decades, bureaucracies have increasingly become the instruments of government that most directly affect citizens. While bureaucracies are formally accountable to the legislature and elected executives, citizens have demanded more direct access to bureaucratic decision making. As an agency, DOE is relatively new to encouraging public participation in its affairs. DOE and its predecessor, the Energy Research and Development Administration, grew out of a strong Atomic Energy Commission culture devoted in large part to the national defense mission to produce nuclear materials for nuclear weapons. The classified nature of this work demanded secrecy, and the formal security engendered a policy to share information on a strict and narrowly defined need-to-know basis. It was not until passage of more stringent environmental laws, such as RCRA in 1976 and CERCLA in 1980, that the Congress ceased to approve of DOE's predominantly production-oriented priorities and the attendant emphasis on protected information. DOE responded by developing the environmental cleanup mission and the new DOE "culture" described below.

Principles that embody this new culture include seeking out constructive criticism, being solicitous of and open to public views, and creating an atmosphere in which problems are identified and resolved cooperatively. For national security reasons, many DOE defense mission activities must remain classified. However, DOE must and will address environmental problems in an open, forthright manner through effective communication with Indian Tribes; local, State, and federal agencies; and the general public. This commitment includes listening to DOE's critics as well as its supporters and treating the public as a partner and resource in the decision-making process. The public is both the ultimate source of funding for environmental restoration and the ultimate customer of DOE services. By effecting a cultural change, DOE will be assisting members of the public to actively influence DOE's policies.

2.2 DEFINITION OF PUBLIC PARTICIPATION

Public participation is the process by which the views of the parties interested in DOE decisions (i.e., interested and affected individuals, organizations, State and local governments, Indian Tribes, and other federal agencies) are integrated into DOE's decision-making process. Public participation in decision making means that public concerns, needs, and values are identified prior to making decisions. The process then requires that these public concerns be considered when DOE makes decisions about its activities. Public decisions should reflect the public views identified to the extent possible, given environmental, financial, legal, and technical constraints. In short, one of the main objectives of public participation is enabling the public to directly influence DOE's decisions.

Consequently, public information dissemination is always a central element in any public participation program.

With both information dissemination and feedback, DOE establishes two-way communication with the public. By allowing for two-way communication, DOE better understands public needs and concerns, while the public becomes better educated regarding DOE's complex technical and managerial responsibilities. The result is often less controversial, more responsive decision making.

It is important to stress that even with a strong public participation program we will not be able to satisfy every constituent. It is not the goal of public participation programs to eliminate controversy. Even when we cannot accommodate all positions, the manner in which a decision is made is still important. During periods of intense political controversy, such as DOE is currently experiencing, the goal of achieving and maintaining legitimacy is accomplished by providing a visible and credible decision-making process that involves the public.

2.2.1 Public Information in Public Participation Programs

Public participation is not equivalent to public relations. One of the most important differences between public participation and public relations revolves around the perspective from which information on DOE's activities is provided. Public relations programs present information about the agency and its activities in the most favorable way possible. In contrast, public information materials from public participation programs attempt to present information about DOE activities more objectively and to identify ways in which the public can comment upon and affect DOE activities and plans. It is important that such information be communi-

pose of all materials used in public participation is to provide adequate, clear information so the public can participate effectively in decision making. DOE uses these materials to allow the public to influence an outcome rather than using the materials to convince the public of the validity of a DOE activity or decision.

2.3 WHY CONDUCT PUBLIC PARTICIPATION PROGRAMS?

The impetus for providing public participation opportunities in hazardous waste programs stems from over 10 years of experience by numerous government agencies at hazardous waste sites nationwide. This

experience revealed that inattention to the local community led, in many cases, to heated political conflicts and costly project delays. Both federal and State hazardous waste laws now mandate that there be meaningful public involvement in remedial response and corrective actions.

DOE's own experience in the last several years shows that, more than ever before, the public is requesting understandable information and involvement with plans designed to achieve environmental compliance and cleanup of DOE's sites and facilities. Most importantly, by actively soliciting comments and information from the public, the technical and procedural effectiveness of the DOE environmental cleanup decision processes is enhanced.

The information below provides an example of how proactive public participation assisted DOE in its environmental restoration activities.

Proactive Public Participation Enhances DOE's Environmental Impact Statement Process: The Case of Hanford's Defense Waste Environmental Impact Statement

In the spring of 1986 the DOE Richland Field Office (RL) was tasked with developing an environmental impact statement (EIS) to evaluate alternatives to deal with defense waste at Hanford. Defense waste had been accumulating at the Hanford Site since World War II. Several of the single-shell tanks used to store waste had leaked radioactive waste into the surrounding soil before the leaks were discovered, causing intense public concern about Hanford. At this same time Hanford was also being considered, along with two other locations, as a site for the nation's first high-level radioactive waste repository. The Chernobyl reactor accident in the Soviet Union also occurred during this time period. Chernobyl, like the Hanford N Reactor, was moderated by graphite. Furthermore, during the EIS process, the public learned that significant amounts of radioactive iodine were released into the atmosphere during the late 1940s as the result of Hanford operations. Because of all these developments, public outrage toward Hanford was at an all-time high.

Given such a politically and emotionally charged atmosphere, RL's defense waste and public affairs personnel realized that more public involvement techniques were needed to gain public support for the Hanford defense waste EIS process. The general feeling was that an EIS on defense waste might end up in court and never be issued. Therefore, RL set up many public participation activities that went beyond the minimum required under NEPA, including supporting the establishment of an independent citizens group, the Northwest Citizens Forum on Defense Waste. The mission of the citizens forum was to monitor the EIS process and to provide RL with feedback on how DOE could better address public concerns. The citizens forum was not a substitute for the NEPA public participation process but rather an enhancement. In addition, RL also planned a series of public open houses and workshops on the draft EIS.

Nominations to the citizens forum were solicited from the governors of the States of Oregon and Washington, political delegations, and several other non-DOE organizations. Initially, 26 members were chosen, including university professors, politicians, environmentalists, Native Americans, business and labor leaders, and former members of the media from all parts of the Pacific Northwest. Within reasonable cost restrictions, the citizens forum was provided all the support they needed, but very little direction other than to focus on the Hanford defense waste EIS rather than on other DOE programs or problems. The forum members were encouraged to talk to whomever they wanted.

The citizens forum held meetings with technical specialists, public officials, and the general public throughout the Pacific Northwest. While it was not expected to reach consensus about the defense waste problem, nor produce a final report, it did both. RL found the citizens forum to be extremely helpful in three areas. First, and most importantly, it reassured the public that the EIS process was being conducted fairly, that the DOE was indeed listening to the public's concerns, and that the public's concerns would be reflected in the EIS. Second, the citizens forum identified technical and social issues associated with the various alternatives being considered that would not otherwise have been raised. This identification of issues in turn resulted in a more comprehensive EIS. Third, the citizens forum and the expanded EIS process brought needed credibility to the process and to the DOE and allowed the EIS process to be supported by a Pacific Northwest consensus. In hindsight, many RL officials believe the investment in the citizens forum was instrumental in completing the defense waste EIS. It also helped to reestablish public credibility in DOE's ability to handle problems in a manner acceptable to the local and regional communities.

The rationale for conducting public participation programs is discussed in the following subsections.

2.3.1 Legitimize the Decision-Making Process

Those new to the process may ask, "Why conduct public participation programs? Why is DOE committing itself to this process, beyond the basic idea that people who are affected by DOE decisions should have a voice in the outcome?" The core belief that underlies the public participation theory is that it legitimizes decision making, so that the decisions can be implemented. Especially in the case of the environmental restoration program, those who are the most concerned about a site or release are usually those who consider themselves to be directly affected, perhaps believing their health to be endangered, perceiving possible economic loss, or being motivated by a concern for the environment. These people are most likely to do whatever is required to bring about an outcome that they perceive as in their best interests. The public provides an excellent resource of pertinent information, opinions, and suggestions, some of which might otherwise go unevaluated. The more legitimate the decision-making process and the more involved the public is in the process, the greater the chance that the affected community or communities will feel that the project is in their best interests. A public participation program, done correctly, provides a feedback loop from the community to DOE so that the environmental restoration project changes in response to public input.

Although a public participation program may involve increased costs and time in arriving at a decision, these costs are balanced by the fact that such programs help control the delays and cost associated with political controversy. If public participation results in a higher level of acceptance and commitment to the decision by the various parties, the cost of the public involvement effort may be returned many times by reducing the costs of continued public controversy.

2.3.2 Minimize Delays

Experience at DOE facilities nationwide has shown that there are several points in the regulatory process (be it CERCLA or RCRA) at which regulatory approval of a project can be delayed and several additional strategies that community members can take to stall an unpopular project, in the event that it receives the necessary regulatory approval. These strategies can be mitigated by an effective public participation program. Examples of such delays and strategies include the following:

- **Lawsuits** - Community members can sue over noncompliance with RCRA, CERCLA, or NEPA, or on grounds that the project is a threat to the public health and/or environment. Preparation for lawsuits requires valuable DOE time and resources, even if the lawsuits never get to court.
- **Petitions/Demonstrations** - Community groups can circulate petitions that, depending on their popularity, can result in hearings at the State or federal level and increased scrutiny of the proposed project. Similarly, at any point in the life of a project, demonstrations may be staged by community groups to draw attention to their positions, resulting in increased media coverage, public scrutiny of the project, as well as possible delays in regulatory review, project construction, or operation.
- **Elections** - Propositions opposing the project can be placed on local/State ballots, and candidates for office may make the project a central campaign issue.

- **Congressional Hearings and/or Oversight** - Congressional or State representatives can either make direct inquiries or push through governmental hearings on the proposed project and/or legislation, increasing oversight of the DOE facility. These activities would certainly result in costly project delays.

2.3.3 Keep the Public Abreast of Environmental Restoration Developments

A public participation program provides for consistent two-way exchange of information and interaction between the public and DOE. This consistency is critical to DOE's ability to gain community support for its environmental restoration programs. Although the levels of effort expended by project staff vary depending on the stage of the project, DOE must be in regular communication with the public. In the absence of such communication, even during periods of relative technical and regulatory inactivity, the more skeptical members of the public are likely to assume "the worst" (i.e., that decisions are being made about a proposed project that DOE does not want the public to know about). Rumors can take on the appearance of fact, so that DOE wastes time responding to rumors rather than the issues at hand.

Another reason for maintaining regular communication with the public is because providing information at regular intervals gives people time to absorb and understand the proposed project, which is critical to gaining public understanding and acceptance of controversial projects. Skepticism can be avoided by periodic progress meetings where information is provided along with a participatory approach regarding environmental findings and related corrective action.

2.3.4 Enhance Credibility

In order for DOE to increase its chances that an environmental restoration project will be acceptable to the public (particularly by the most vocal opponents of the project), DOE must demonstrate that it is taking the public's health and environmental concerns into account. Because of the time involved in keeping abreast of all technical and regulatory project developments, it is likely that not everyone will be able to closely follow and assimilate all of the information that DOE provides. However, if DOE has followed through on its commitments and has been successful at establishing a relationship with the community, the public and the regulators will be more likely to view the proposed project as credible.

2.4 NO GUARANTEES

Even the most carefully planned public participation program cannot guarantee that an environmental restoration project will gain the wholehearted approval of the community. Sometimes the best that a public participation program can produce is a "grudging acceptance" on the part of the community that the DOE activity under consideration has factored community concerns into the project to the greatest extent possible. At a minimum, a public participation program may reduce the vulnerability of a DOE project to concerted public opposition and strengthen DOE's position in the event of a legal or regulatory challenge.

A public participation program will not eliminate the conflicts and controversies that a DOE action inspires. In fact, the onset of such a program often raises the level of controversy, since public concerns and viewpoints are actively solicited. Nevertheless, the level of anger and frustration is almost certain to be higher in a community that has been "shut out" or ignored than a community that has had a voice in the process. A well-designed and implemented public participation program provides the forum for anticipating and resolving community concerns, before the opportunity for constructive resolution is lost.

2.5 REGULATORY FRAMEWORK

The following discussion describes in general terms the three major federal environmental statutes affecting DOE's environmental restoration program. Each piece of legislation has some specific public participation requirements, which are discussed in detail in the following sections. Close attention to these public participation requirements is needed to avoid costly delays and legal actions.

The Comprehensive Environmental Response, Compensation, and Liability Act. The purpose of CERCLA is to provide for compensation, liability, cleanup, and emergency response for hazardous substances released into the environment and for the cleanup of inactive hazardous waste disposal sites. CERCLA was originally enacted in 1980 and was amended in 1986 by SARA. The 1986 amendments included specific deadlines and requirements applicable to federal facilities. The National Contingency Plan (40 CFR 300), established pursuant to CERCLA, is the implementing regulation for CERCLA and provides the organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances, pollutants, and contaminants. Executive Order 12580, "Superfund Implementation," delegated to DOE several authorities, including the authority to respond to a release or threat of release of CERCLA hazardous substances at DOE facilities.

The Resource Conservation and Recovery Act. RCRA, which amended the Solid Waste Disposal Act of 1965, is the 1976 statute that regulates the management of hazardous wastes, including the hazardous components of radioactive mixed waste at currently operating facilities (under Subtitle C). Subtitle D of RCRA regulates solid wastes; Subtitle I regulates underground storage tanks, and Subtitle J regulates medical wastes. RCRA requires that permits be obtained for DOE facilities that treat, store, or dispose of hazardous or radioactive mixed wastes, and it establishes standards for those facilities. RCRA was amended by the Hazardous and Solid Waste Amendments of 1984 to include corrective action for releases of hazardous constituents from solid waste management units at RCRA-permitted facilities.

With respect to DOE's environmental restoration, RCRA is concerned with the assessment and cleanup of inactive units and sites that are connected with active installations (e.g., RCRA corrective actions). Section 3004(u) provides, as a condition of a permit, the requirement for cleanup of all releases of hazardous waste and hazardous constituents. Section 3004(v) extends this permit requirement to nearby contaminated properties beyond the facility boundary. Section 3008(h) provides for corrective action orders from EPA for cleanup after a determination that there is or has been a release from an interim status facility (i.e., a facility that has applied for but not yet received its final treatment, storage, and disposal permit).

The National Environmental Policy Act. NEPA is the 1969 statute that establishes broad national environmental policy. It requires that federal agencies review proposed federal actions to determine whether they may have a significant impact on the human environment. For actions that have potential for significant environmental effects, an environmental impact statement (EIS) must be prepared, with public participation.

Use of Applicable Statute. Pursuant to DOE Order 5400.4, "Comprehensive Environmental Response, Compensation and Liability Act Requirements," DOE should follow the public participation requirements of the applicable statute under which the environmental restoration response is taken (DOE 1989a). For example, if the response is carried out at a DOE site on EPA's National Priorities List (NPL), the public participation requirements of CERCLA and the National Contingency Plan (40 CFR 300) should be followed. In cases where RCRA and CERCLA authorities overlap at an NPL site, DOE will work with the regulatory agencies through the federal facility agreement (FFA) to ensure development of a comprehensive public

participation program consistent with the DOE objectives listed below. At DOE non-NPL sites, the public participation requirements of the statute under which the response is taken should be followed. Heads of Field Offices also need to ensure they are following DOE Order 5400.4 policy that the actions taken "are not inconsistent with the National Contingency Plan" (DOE 1989a).

2.6 ORGANIZATIONAL FRAMEWORK

To ensure that the public is actively involved in the design and implementation of environmental restoration program activities, the following public participation objectives have been adopted for DOE's environmental restoration efforts:

- ensure that both the letter and the spirit of the public participation requirements of CERCLA, NEPA, and RCRA are met
- obtain the public's help in identifying DOE's environmental restoration problems and issues that should be addressed
- obtain the public's help in identifying alternative solutions to those problems and issues
- obtain the public's help in identifying the importance of environmental, social, economic, and cultural conditions and values to be promoted and protected
- address conflicts among competing values
- pursue consensus toward DOE's environmental restoration actions and decisions in the best overall public interest
- increase public understanding of the complexity of DOE's environmental restoration problems and issues.

At DOE's EM Office, the main planning tool for achieving the above objectives will be public participation plans developed for EM Headquarters and for each Field Office sponsoring EM activities. These public participation plans are envisioned to serve as umbrella planning documents for all EM public participation activities initiated by Headquarters and the relevant Field Offices. The Field Office plans will not replace the need for specific plans required by statute, such as community relations plans required under CERCLA. These community relations plans should continue to be developed for each site as specified by EPA guidance and should be added to the Field Office public participation plans as appendices. Other DOE offices carrying out environmental restoration activities are encouraged to develop similar tools to fulfill these objectives.

EM's public participation plans are to be updated annually along with the site specific plans and will accomplish the following:

- provide a timeline of the technical program activities for the coming fiscal year and note which activities should include public participation
- include a timeline of EM/public interactions planned for the coming fiscal year, keyed to the technical timeline

- list and briefly describe the public participation activities to be conducted by the Field Office or installation during the year
- assess the resources needed and available for conducting the activities and identify requests for assistance from EM Headquarters, such as for training materials
- evaluate the current fiscal year's activities to date and provide for evaluating the coming fiscal year's activities.

Building effective public participation plans and programs requires teamwork; technical, management, and public participation personnel all need to be involved in the design and implementation of public participation programs. Each of these disciplines brings with it unique knowledge needed for effective public participation efforts. For instance, project managers will need to be familiar with public participation requirements and schedules when preparing project schedules. When preparing a presentation for the public, project managers and technical specialists need to learn about public concerns and the questions likely to be raised by the public. Similarly, public participation personnel will need input from the technical specialists and project managers when planning the announcement of study results to the public.

2.6.1 DOE Personnel's Roles and Responsibilities

Although a team approach should be used to implement DOE's public participation program, the following specific roles are identified to ensure accountability.

Headquarters Program Secretarial and Project Offices. EM and other Program Secretarial Offices (PSOs) and Project Offices with environmental restoration responsibilities will have primary responsibility for ensuring that DOE's environmental restoration public participation objectives are achieved. These Headquarters Offices will be responsible for overseeing the establishment of effective public participation programs at each DOE Field Office. They will also coordinate their public participation efforts, as needed, with the Assistant Secretary for Congressional and Intergovernmental Affairs (CP); the Office of Public Affairs (PA); and the Assistant Secretary for Environment, Safety and Health (EH).

EM and other PSOs and Project Offices with environmental restoration responsibilities will be responsible for ensuring that the appropriate Field Offices and government-owned, contractor-operated facility personnel receive the training and resources needed to implement effective public participation programs, based on field requests.

PSOs and Project Offices may want to develop a system to review relevant public participation documents developed by Field Offices and facilities to ensure that they are consistent with DOE's public participation objectives.

EM Headquarters will be responsible for developing guidelines for Field Office public participation plans and for preparing a Headquarter's level public participation plan. This plan will describe EM public participation policy and the general goals and objectives for EM's public participation program. The plan will also describe Headquarter's initiated public participation activities and opportunities to undertake joint activities with field personnel.

Assistant Secretary for Environment, Safety and Health. EH has the lead for agency-wide environmental policy issues and coordination with EPA Headquarters. EH will be responsible for reviewing all primary documents produced under each FFA relevant to public participation, such as the CERCLA community relations plan, to ensure these documents comply with environmental statutes, regulations, and EPA and DOE public participation guidance. The organization chart for EH is shown in Figure 2.1.

Field Offices. The Assistant Field Manager for EM and other managers of Field Offices with environmental restoration responsibilities will be responsible for developing and implementing a comprehensive public participation plan and program for their environmental restoration activities. In doing so, the Field Offices can use personnel from other DOE offices, national laboratories, or contractors, as needed, to achieve their specific goals and objectives. Frequent and visible involvement of senior management will demonstrate their commitment to public participation and greatly enhance its credibility in the local community.

The Assistant Field Manager for EM and other managers of Field Offices with environmental restoration responsibilities will work closely with the Field Office's public affairs staff and other DOE and contractor technical personnel at the various sites and facilities to ensure that integrated public participation plans and programs are developed.

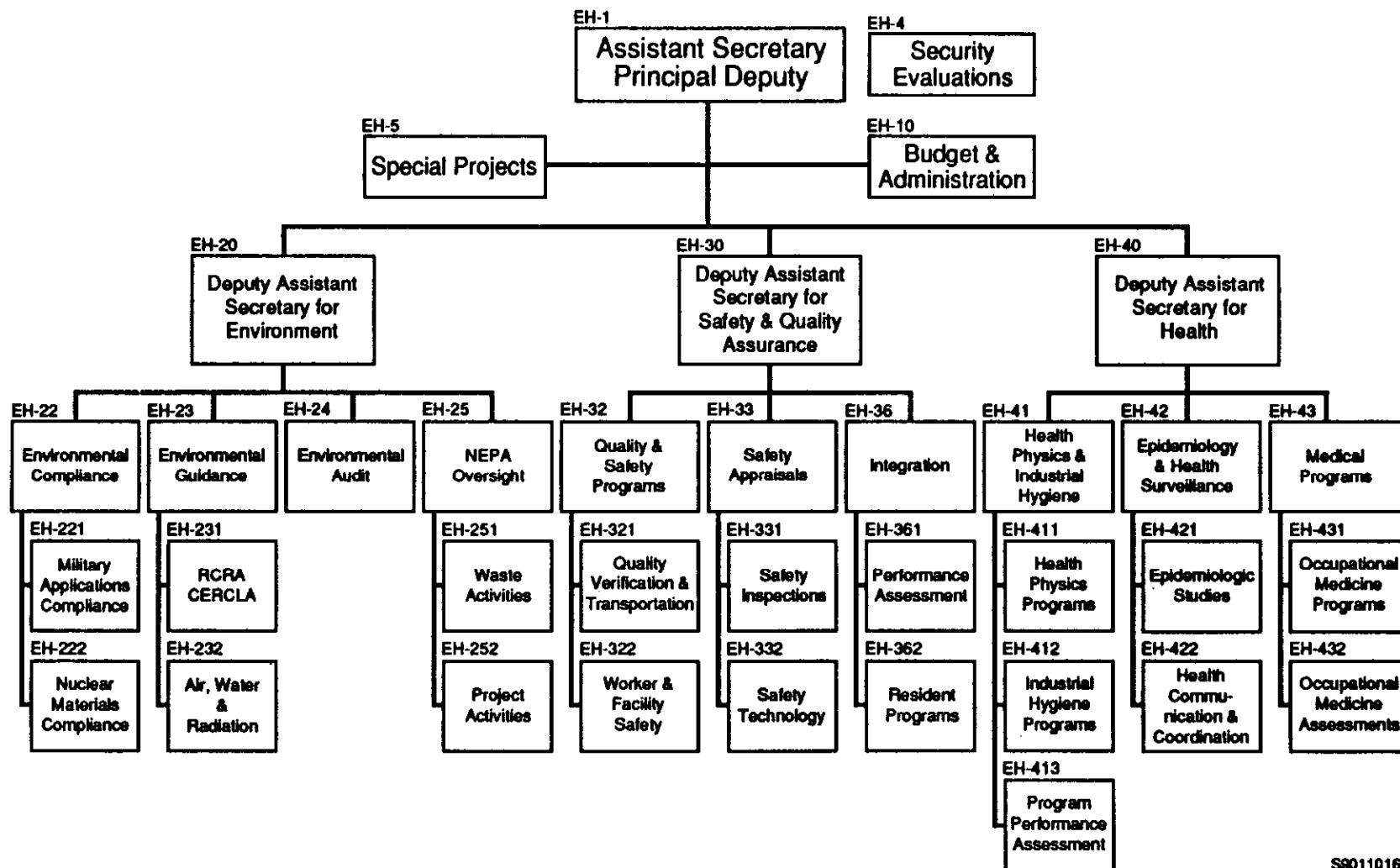
In EM's case, the EM Associate Directors will be responsible for meeting public participation requirements for environmental restoration activities, consistent with EM's public participation objectives, as well as all appropriate statutes. The EM Associate Directors will prepare coordinated public participation plans and will provide the resources and direction needed to implement the plans successfully. Guidelines for the development of public participation plans will be developed by EM Headquarters and disseminated to Field Offices.

National Laboratories and Other Subcontractors. National laboratories and other contractors may assist the responsible DOE organizations with implementation of public participation activities. Because the specific needs of each Field Office vary significantly, each manager of a Field Office will decide what public participation roles national laboratories and other contractors will play. In general, DOE personnel should be prominently involved with all public participation efforts. For instance, while a contractor may be used to conduct the community interviews needed to develop a CERCLA community relations plan, DOE officials should review the list of persons to be interviewed and the questions to be asked, as well as participate in several of the interviews. Only by such direct "hands on" involvement will DOE personnel be able to engage in the personal two-way communication necessary to effect the cultural change. Figure 2.2 illustrates these relationships.

2.6.2 Coordination and Review Process

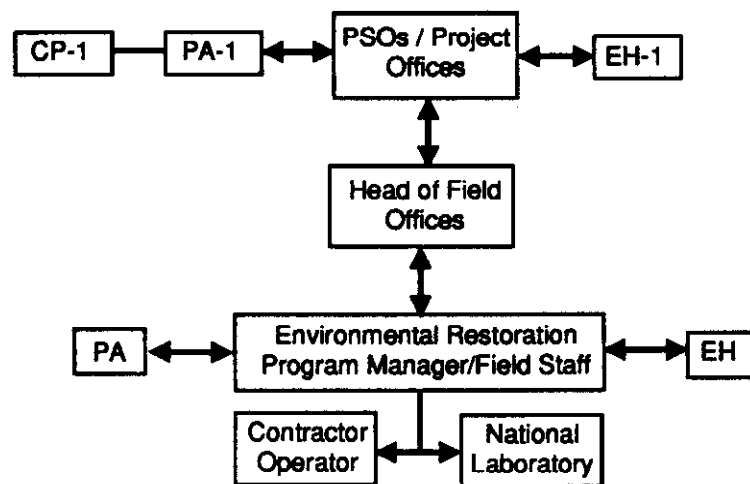
Because many of the statutory and regulatory public participation requirements are geared to the local level, a quick turnaround is essential for being responsive to local needs. The Assistant Field Manager for EM and other managers of Field Offices with environmental restoration responsibilities will be responsible for review and approval of public participation documents in accordance with DOE Orders 1340.1A (DOE 1982) and 1350.1 (DOE 1981). This will be accomplished through coordination with the Field Offices of Public Affairs.

Press releases (other than announcements for meetings) need the review and approval of the Field Office, and as appropriate, PA. Review and approval by EM are necessary for the public participation plan as



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Figure 2.1. Organization Chart for Assistant Secretary for Environment, Safety and Health



CP = Office of Congressional and Intergovernmental Affairs
 EH = Office of Environment, Safety and Health
 PA = Office of Public Affairs
 PSO = Program Secretarial Office

Figure 2.2. Environmental Restoration Public Participation Coordination

discussed in the Five-Year Plan Update (DOE 1990a). EH review and approval are needed for NEPA documentation (e.g., notice of intent). EH review is needed for FFA primary documents, (e.g., the CERCLA community relations plan). In addition, PA should be informed of, and possibly review, any activity or document that may receive national media or congressional (State or federal) attention, such as the announcement of new sources of contamination discovered during a remedial investigation (RI); an accidental release or spill at a site or facility; or the completion, and results, of a risk assessment.

2.6.3 DOE, EPA, and State Coordination

An effective public participation program will also require close cooperation among DOE, EPA, and State personnel. The specific public participation roles of the three agencies should be addressed in the FFA. The FFA is the preferred framework for negotiations among EPA, other federal agencies acting as lead agencies, and the State to reach a binding agreement that sets forth cleanup requirements, schedules, and responsibilities. Typically, however, as lead agency DOE will be responsible for developing and implementing the public participation program while EPA and State officials will review the relevant documents. (In the case of CERCLA community relations plan, EPA must approve the documents.)

Regardless of how the specific roles of the three organizations are defined, they should interact with the community as a team. As an illustration, it is recommended that representatives from all three organizations be present at all public meetings. The more closely the three agencies work together to maintain needed oversight and review responsibilities, the more consistent the message to the public is likely to be. If DOE is holding a meeting, for example, on the results of one phase of an environmental restoration activity, both the

EPA and the State should be invited to participate and give presentations from a technical adequacy and regulatory perspective. It is very important to convey that there is proper oversight by the regulatory agencies and to demonstrate an integrated approach. It may also be desirable prior to public meetings to hold a practice meeting with all agencies giving presentations.

2.7 RESOURCES

Significant resources will need to be allocated to support DOE personnel in their efforts to comply with the public participation requirements set forth in this manual and to effectively implement techniques that encourage participation beyond the minimum requirements. A comprehensive and responsive public participation program requires that the appropriate resources be available to DOE personnel involved in the effort. This subsection identifies two key areas of resources: 1) personnel, and 2) training needs. These areas are discussed below.

2.7.1 Personnel

The hazardous waste management and cleanup activities of each Field Office and every facility and laboratory are unique; environmental restoration activities will differ from facility to facility. However, each Field Office will develop an effective public participation program to comply with CERCLA, RCRA, and NEPA regulations and will assign personnel to plan and implement the program. NEPA procedures already in place at the Field Offices should be reviewed. The following information is presented only as a guide and should not be interpreted as a directive or requirement. The discussion provides information to assist in identifying personnel needs for a public participation program at a facility with a moderate level of community interest. Specific needs are presented for public participation personnel, public affairs personnel, and technical and management personnel.

Public Participation Personnel

Planning and implementing a public participation program require the attention of at least one full-time public participation staff person, that is, one full-time equivalent. This staff person may be either housed in the DOE Office of Public Affairs or in the appropriate DOE program office. Additional public participation staff people might be necessary depending on a number of factors: a high level of community interest in environmental restoration activities, highly complex site technical issues, and ongoing activities at several CERCLA operable units and/or RCRA facilities. Typically, additional assistance is necessary from support staff, graphic designers and typesetters, public affairs personnel, technical and management personnel, and/or contractors. Regardless of the size of the group, it must function as an integrated team because a high degree of coordination among all involved personnel is critical to the success of the public participation program. As part of the team concept, the public participation staff person assigned to environmental restoration activities should attend as many project planning, technical, and coordination meetings as possible to gain the necessary depth and scope of knowledge needed to effectively perform the function.

A wide range of activities exists that require the involvement of the public participation staff. Typically, these activities require the ability to work at a fast pace and meet tight deadlines, coordinate many projects at

once, understand and be conversant on waste site cleanup and corrective action activities, coordinate and plan with other members of the team, and communicate (in writing and orally) effectively and creatively.

Specifically, the public participation staff person will be responsible for developing CERCLA community relations plans, RCRA public involvement plans, and EM's public participation plans, and implementing these plans over the life of the projects, which are likely to last many years. In addition, the public participation staff person may also be responsible for conducting NEPA public participation activities, especially if the NEPA and CERCLA programs are integrated.

As part of these responsibilities, the public participation staff person will need to prepare and mail informational materials for the public; respond to citizens' telephone calls and written requests; plan for and attend public meetings; plan and participate in special events and other public outreach activities; participate in technical and project planning and scheduling meetings; attend management meetings and briefings; and if public participation contractors are involved, supervise and coordinate efforts with them. In addition, the public participation staff person should coordinate, on a weekly basis, with technical staff to stay abreast of site activities; with public affairs staff on a weekly basis to keep them fully informed of community issues; with graphics designers and typesetters on a daily basis when a specific document is being designed and produced; and with support staff on a daily basis.

Public Affairs Personnel

Public participation and public affairs personnel should devote time on a weekly basis to consult and coordinate with one another. Public participation staff will need to brief public affairs personnel on technical and community issues and activities so that public affairs personnel can be fully informed when carrying out their responsibilities, specifically with regard to interacting with the media. The services provided by public affairs personnel such as producing press releases, conducting media briefings, responding to press questions, producing in-house news publications, and organizing speakers bureaus will prove to be invaluable resources in support of public participation staff efforts.

Technical and Management Personnel

Public participation personnel should have ready access to environmental restoration personnel who are carrying out the site technical program and to facility management personnel. The public participation team will need to interact extensively with and be a visible, active participant in the overall project planning process. Technical staff should support the public participation program by attending and making presentations at public meetings, workshops, and other public forums; participating in practice sessions prior to public meetings; providing technical information to public participation staff in response to citizen requests; providing and reviewing technical information incorporated into public informational materials developed by public participation personnel; and participating in other activities as they arise. Management personnel may also be involved in the above-mentioned activities and will need to provide oversight and trouble-shooting support as well. It is the role of management to convey to technical personnel the importance of public involvement to the overall success of the project. This level of interaction and coordination is important to ensure that public participation and technical activities are coordinated and that areas of expertise are shared among staff working on the project. Technical personnel should plan to devote between 5 to 10 percent of their project time to public participation activities over the life of the project. It will likely be a lower percentage for management personnel.

2.7.2 Training Needs

Training is necessary to assist all personnel involved in environmental restoration projects in honing and maintaining their professional skills, as well as in learning new techniques to enable them to better conduct their responsibilities. For staff involved with public participation activities, a variety of skills are pertinent. Topics that might be most valuable are listed below:

- interacting with the media
- making effective presentations
- answering tough questions from the community
- explaining technical information in ways easily understood by the public
- facilitating and managing meetings
- resolving disputes and building consensus
- developing effective teams and networks
- involving the public in technical programs
- understanding differing perceptions of risks.

Public participation training is valuable because virtually every staff person involved in the site technical program must interact with the public and the media at some point in the process. An understanding of how public participation fits into the overall project, coupled with skill-building training, will allow for fuller contributions by team members.

3.0 STATUTORY AND REGULATORY REQUIREMENTS

This section identifies and summarizes public participation requirements under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the 1986 Superfund Amendments and Reauthorization Act (SARA); the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984; and the National Environmental Policy Act of 1969 (NEPA). (Note that "public participation" is equivalent to the term "community relations" as used in CERCLA and "public involvement" as used in RCRA and NEPA). The public participation requirements for each statute are described in the following pages, as well as the integration of public participation requirements for CERCLA and RCRA activities. A methodology for integrating CERCLA and NEPA public participation activities is also addressed. Finally, integration of state requirements for public participation is discussed. Statutes and regulations relevant to all public participation activities are referred to throughout the discussions. Certain additional activities recommended by DOE are also included.

3.1 CERCLA COMMUNITY RELATIONS REQUIREMENTS

The requirements discussed in this section are set forth in the National Contingency Plan (40 CFR 300), in CERCLA, and in various referenced EPA policy documents. DOE has been delegated the authority to respond to a release or threat of release of CERCLA hazardous substances at DOE facilities through Executive Order 12580.

This section addresses requirements for both remedial responses and removal actions and includes information on EPA's technical assistance grants (TAG) Program. CERCLA remedial responses are long-term actions designed to stop or substantially reduce a release or threatened release of hazardous substances. Remedial response actions address releases considered to be serious, but not an immediate threat to public health and/or the environment. A CERCLA removal action is a short-term, immediate action to address a release or threatened release of hazardous substances that pose a threat to public health, welfare, or the environment.

3.1.1 Requirements for Remedial Actions

SARA brings federal facilities under the jurisdiction of CERCLA and its implementing regulation, the National Contingency Plan (40 CFR 300). The National Contingency Plan requires that a community relations plan accompany any CERCLA RI and response at a federal facility. DOE will evaluate the site through a preliminary assessment and site inspection to determine whether further remedial action is needed. While formal community relations activities are not required during these actions, there are preliminary activities that DOE is recommending be conducted. Once DOE has evaluated a site, set priorities, and initiated the RI, a formal community relations effort becomes an integral part of the site activities.

The National Contingency Plan (40 CFR 300) and CERCLA provide procedures for specific situations in which public participation must occur at sites where CERCLA response actions are taken. Table 3.1 is a

Table 3.1. CERCLA Remedial Action Community Relations Requirements and Citations

Activity	Citation
1. Prepare community relations plan based on community interviews	40 CFR 300.430(c)(2)(ii)
2. Create and maintain information repository; publish notice of availability	CERCLA 117(d), 40 CFR 300.430(c)(2)(iii)
3. Create and maintain administrative record; publish	CERCLA 113(k).
assistance grants	
5. Prepare and publish analysis of proposed plan; public participation of availability	CERCLA 113(k), 117(a) and (d), 40 CFR 300.430(f)(3)(i)(A)
6. Conduct public meeting and public comment period on proposed plan	CERCLA 113(k), 117(a), 40 CFR 300.430(f)(3)(i)(C-E)
7. Discuss significant changes	40 CFR 300.430(f)(3)ii
8. Prepare responsiveness summary of comments and responses	CERCLA 113(k), 117(b) 40 CFR 300.430(f)(3)(i)(F)
9. Notify public of final selection of remedial action or record of decision	CERCLA 113, 117(b) and (d), 40 CFR 300.430(f)(6)
10. Review and revise community relation plan, if necessary	40 CFR 300.435(c)
11. Notify public of any significant changes to final remedy selected in record of decision	CERCLA 113(k), 117(c), and 40 CFR 300.435(c)(2)
12. Prepare fact sheet on final engineering design; conduct public briefing on final design, as appropriate	40 CFR 300.435(c)(3)

summary of CERCLA community relations requirements and their statutory and regulatory citations. Fulfilling these requirements will not necessarily result in a successful public participation program. Rather, these requirements are the foundation for more comprehensive and site-specific activities to be described in this guidance manual.

DOE personnel should consider many factors, including the community's concerns regarding the site and DOE's cleanup plans, in determining the extent of public participation activities to be conducted for a site. (Section 4.0 of this manual identifies and describes additional community relations activities beyond the required activities listed below.)

Each of the activities listed in Table 3.1 is described below. For additional details, see Appendix A.

1. Prepare Community Relations Plan. Prior to commencing field work for the RI, DOE must conduct interviews with local officials, community residents, public interest groups, or other interested or affected parties, as appropriate, to solicit their concerns and information needs, and to learn how and when citizens would like to be involved in the CERCLA process. Based upon this information, a CRP must be prepared, specifying the community relations activities that DOE expects to undertake during the response action. The purpose of the plan is 1) to ensure the public appropriate opportunities for involvement in a wide variety of CERCLA-related decisions, including site analysis and characterization, alternatives analysis, selection of remedy, remedial design and remedial action; 2) to determine, based on interviews, appropriate activities to ensure such public involvement; and 3) to provide appropriate opportunities for the community to learn about the site. The plan should be made available in the information repository.

2 and 3. Create and Maintain Administrative Record and Information Repository. The administrative record contains the documents that form the basis for selecting a response action. The administrative record establishes the limit for judicial review of any issue concerning the adequacy of a response action and is a vehicle for public participation in the selection of the response action. The record must be established at a central location (e.g., the nearest Area or Field Office in the site) and be available at the commencement of the RI. A copy of the documents included in the administrative record file must also be available for public inspection at or near the site at issue (this may be the information repository). A notice of availability of the administrative record must be published in a major local newspaper of general circulation, at a minimum.

The term "information repository" describes the set of documents containing information on site activities that are available to the public. An information repository must be established at or near the CERCLA site before the RI begins. If there is a large site or a lot of public interest, more than one information repository may be required. While the administrative record will contain only those documents that form the basis for selection of a response action, the information repository should contain a copy of all items made available to the public, including information on TAGs. The materials contained in the information repository may overlap with those contained in the administrative record, although the information repository may contain additional information which is of interest to the public but which does not form the basis of the response selection (e.g., press releases, fact sheets, and newspaper articles). In fact, the information repository and administrative record may reside in the same location and may be established at approximately the same time. [For more information, see EPA's *Final Guidance on Administrative Records for Selection of CERCLA Response Actions* (EPA 1990a), OSWER Directive 9833.3A-1.] Upon establishment of the information repository, the public must be notified of the availability of the information in a local newspaper of general circulation.

4. Inform the Community of the Availability of Technical Assistance Grants. Congress included provisions in the amendments to CERCLA to establish a TAG program. Prior to commencing field work for the RI, DOE must notify the public of the availability of TAG funds. The TAG program is intended to foster informed public involvement in decisions relating to site-specific cleanup strategies under CERCLA.

The TAG program provides up to \$50,000 per NPL site to community groups for the purpose of hiring technical advisors to assist them in analyzing and commenting on site findings and proposed cleanup actions. TAGs are available to communities located near NPL sites. Congress and EPA have established certain basic requirements concerning the receipt and proper use of TAG funds by a recipient group.

The TAG program is currently operating under amendments to the interim final rule published on December 1, 1989 (54 FR 49848). The interim final rule was issued in the *Federal Register* (FR) on March 24, 1988 (53 FR 9736). The final rule will probably not be issued until the end of 1991 or the beginning of 1992. However, TAGs are currently available and EPA has produced a handbook on their use (EPA 1990b).

The EPA wishes to encourage citizens to apply for TAGs. Therefore, the National Contingency Plan (40 CFR 300) requires that the local community be informed of the availability of TAGs and information about the grants be placed in the information repository.

DOE's responsibilities may include reimbursing EPA for the costs of TAGs awarded at DOE sites. DOE should provide the same level of attention to TAG groups as to any other community group (i.e., meeting with them and providing access to information). One exception may be that other community groups may only want fact sheets or summaries of technical documents, and the TAG groups may request the technical documents themselves, inasmuch as they have hired a technical consultant to review them. DOE is obligated to make available all information necessary for TAG technical consultants to do their review.

5. Publish Notice of Availability of Feasibility Study and Proposed Plan. Upon completion of the feasibility study (FS) report and the preparation of the site's proposed plan, these documents must be placed in the administrative record. A notice and brief analysis of the proposed plan must be published to notify the public of DOE's preferred remedy and of the other alternatives that were analyzed. This public notice should also identify the location where the administrative record can be reviewed and copied, community involvement opportunities, and the name of an agency contact. This notice must, at a minimum, be published in a major local newspaper.

6. Conduct Public Meeting and Public Comment Period on the Proposed Plan. The National Contingency Plan (40 CFR 300) requires that for all CERCLA remedial actions, the proposed plan and supporting analysis and information, including the RI/FS, be made available to the public for its review and comment for a period of at least 30 days. It allows for the extension of this comment period by 30 days upon timely request. The National Contingency Plan also requires that DOE provide the opportunity for a public meeting to be held during the comment period at or near the site at issue. If a meeting is conducted during the public comment period, a transcript must be made available to the public.

7. Discussion of Significant Changes. After publication of the proposed plan and prior to adoption of the selected remedy in the record of decision (ROD), if new information is made available that significantly changes the basic features of the remedy with respect to scope, performance, or cost, the lead agency shall, depending on the circumstances, include a discussion in the ROD of the significant changes and reasons for such changes; or, seek additional public comment on a revised proposed plan. The public participation requirements of Section 300.430 (f)(3)(i) of the National Contingency Plan (40 CFR 300) will be followed. This includes publishing a notice of availability, making the revised proposed plan available in the administrative record, providing a public comment period, providing the opportunity for a public meeting, keeping a transcript, and preparing a written responsiveness summary.

8. Prepare Responsiveness Summary. Following the conclusion of the comment period, CERCLA and the National Contingency Plan (40 CFR 300) require that a response be prepared to significant written or oral comments, criticisms, and new data submitted during the comment period, and that this response accompany the ROD. The response to comments also documents community involvement in the decision-making process. EPA labels the response document a "responsiveness summary."

9. Notify Public of Final Selection of Remedial Action or Record of Decision. A ROD must be prepared for the site that explains the selected remedial action and discusses any significant changes (and the reasons for the changes) from the proposed plan (see No. 7 above). A notice of the availability of the ROD must be published, and the ROD must be made available in the administrative record.

10. Review and Revise Community Relations Plan, if Necessary. Prior to the initiation of remedial design, DOE is required to review the community relations plan to see if it should be revised.

11. Notify Public of any Significant Changes to Final Remedy Selected in the Record of Decision. DOE will publish an explanation of significant differences if the remedial action to be taken differs significantly from the remedy selected in the ROD, but does not fundamentally alter the remedy with respect to cost, scope, or performance. DOE will publish a notice summarizing the explanation of significant differences in a local newspaper of general circulation.

If the remedial action fundamentally alters the remedy selected in the ROD, DOE will propose an amendment to the ROD. The public participation requirements of Section 300.435(c)(2) shall be followed. This includes publishing a notice of availability and brief description of the amendment to the ROD in a local newspaper of general circulation; making the proposed amendment available for public comments; providing a comment period of not less than 30 days, extended by an additional 30 days upon request; providing the opportunity for a public meeting during the comment period; and keeping a transcript of comments received at the meeting, if one is held. DOE will publish a notice of the availability of the amended ROD in a local newspaper of general circulation and will make the amended ROD available to the public in the information repository and administrative record. The amended ROD will include an explanation of the amendment and DOE's response to comments.

A responsiveness summary must be prepared following the public comment period, if one is conducted, and must provide DOE responses to comments received during the public comment period. The responsiveness summary must be made available to the public. Further guidance is available in EPA's *Interim Final Guidance on Preparing CERCLA Decision Documents* (EPA 1989), OSWER Directive 9335.3-02, October 1989.

12. Prepare Fact Sheet on Final Engineering Design. The National Contingency Plan (40 CFR 300) also states that, after completion of the final engineering design, a fact sheet must be distributed; and, as appropriate, a public briefing should be provided prior to the initiation of the remedial action.

3.1.2 Requirements for Removal Actions

In defining removal actions, the National Contingency Plan (40 CFR 300) stipulates that if DOE determines that "there is a threat to public health, welfare or the environment...the lead agency may take any

appropriate action to abate, stabilize, mitigate, or eliminate the release or threat of release." Such actions may last only a few days or may require longer-term measures. Removal actions may be taken at sites that have not been ranked on the NPL, as well as at NPL sites.

For all removal actions at DOE sites, a spokesperson must be identified to inform the community of actions taken, respond to inquiries, and provide information concerning the release. The spokesperson shall notify immediately affected citizens; State and local officials; and where appropriate, civil defense or emergency management agencies. The spokesperson must coordinate all statements with the on-scene coordinator who is in charge of the removal action.

Community relations requirements for removal actions, all stated in 40 CFR 300.425(m), vary for short- and long-term actions. For removal actions where less than 6 months exist before the activity will begin (i.e., time-critical and emergency), an administrative record file should be established, and a notice of the availability of the record should be published in a local newspaper of general circulation within 60 days of the initiation of onsite removal activity. DOE shall, as appropriate, provide at least a 30-day public comment period beginning at the time the administrative record is made available for public inspection. DOE should prepare a written response to significant comments received and include it in the administrative record.

For removal actions where onsite action is expected to extend beyond 120 days, DOE should conduct interviews with local officials, community residents, and public interest groups to solicit information on their concerns and information needs and to prepare a formal community relations plan based on community interviews by the end of the 120-day period. DOE should also establish at least one information repository and an administrative record, and notify the public of the establishment of the repository and the availability of the administrative record.

For removal actions where a planning period of at least 6 months exists prior to the initiation of onsite removal activities (i.e., non-time-critical), all activities required for the 120+ day action discussed above should be completed prior to the completion of the engineering evaluation/cost analysis. In addition, DOE should publish notice of the availability of and a brief description of the engineering evaluation/cost analysis in a local newspaper of general circulation, and conduct at least a 30-day public comment period (which can be extended by at least 15 days upon request). Lastly, DOE should prepare a responsiveness summary for all significant comments received.

3.2 RCRA CORRECTIVE ACTION PUBLIC INVOLVEMENT REQUIREMENTS

The following discussion describes RCRA corrective action public involvement requirements.

RCRA Permits. RCRA requires permits for facilities that generate, transport, treat, store, or dispose of hazardous waste. There are public participation requirements associated with these permits set forth in 40 CFR 25. Additional permitting public participation requirements are included in 40 CFR 124. These requirements are the responsibility of the regulatory agency, which is either EPA or a State that has been authorized by EPA to implement the relevant RCRA requirements.

RCRA Corrective Action. The 1984 HSWA amendments to RCRA included provisions for corrective action for all releases of hazardous waste or waste constituents from solid waste management units, regardless of the time the waste was placed in the unit. Usually, the corrective action process is initiated by performing a

RCRA facility assessment (RFA). Following the completion of the RFA, DOE may be directed to perform the next three phases: 1) the RCRA facility investigation (RFI) 2) the corrective measures study (CMS) and 3) the corrective measures implementation (CMI). The relationship among these three phases is represented in Figure 3.1 (*RCRA Corrective Action Plan*, EPA 1988c). RCRA corrective actions can occur through two procedures, either pursuant to a RCRA 3008(h) order or as a condition of a permit [RCRA 3004 (u) or (v)].

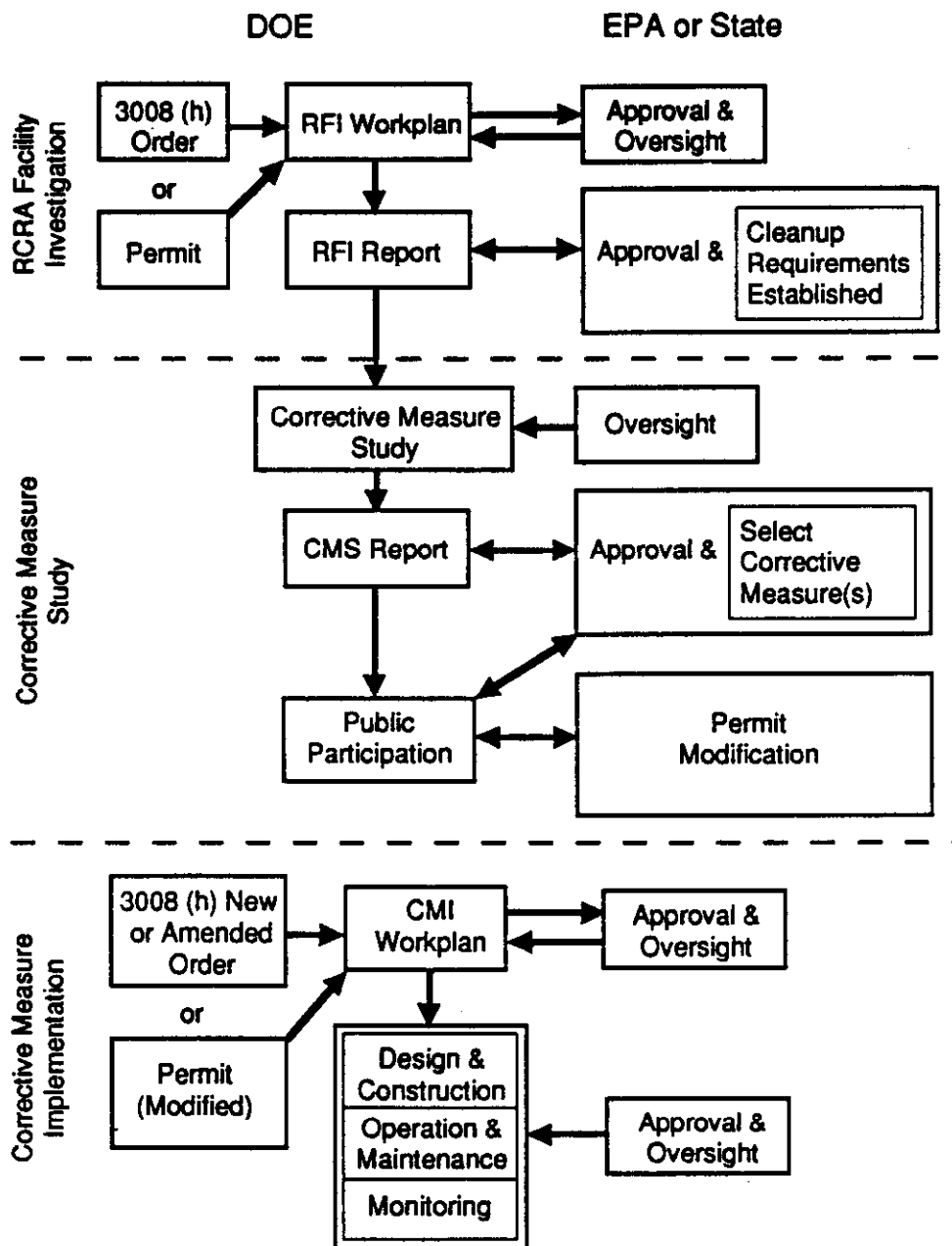


Figure 3.1. RCRA Corrective Action Plan (EPA 1988c)

Corrective Actions Under RCRA 3004 (u) or (v). For any facility with permits issued after the enactment of HSWA in 1984, corrective actions are required for all releases of hazardous waste or constituents from any solid waste management unit at or near that facility, regardless of the time of the release [RCRA 3004(u) and 3004(v)]. The corrective action will be specified as a permit condition and performed within the context of the RCRA permitting process, either when applying for a permit or when modifying a current permit.

For corrective actions under 3004 (u) or (v), regulators (EPA or a State) are required to follow the public involvement requirements for permitting, outlined in 40 CFR 270.41 and 40 CFR 124, and should consider EPA's *Guidance on Public Involvement in the RCRA Permitting Program* (EPA 1986). However, if a State has been delegated corrective action authority, it may have State permitting (and public involvement) regulations that apply instead. These regulations may be more stringent than EPA's. The public involvement activities performed by the regulators begin once DOE submits either a permit application or a permit modification to implement a corrective measure. These are summarized in Table 3.2. Further requirements (for the regulators) can be expected when EPA promulgates final regulations implementing 3004(u) and (v), known as 40 CFR Part 264, Subpart S, "Corrective Action for Solid Waste Management Units."

Corrective Actions Under RCRA 3008(h). At interim status facilities not subject to corrective action under 3004 (u) or (v) (i.e., a facility that is under interim status prior to the enactment of HSWA and that has not yet been issued a final treatment, storage, or disposal permit), EPA can require cleanup at a facility by issuing a corrective action order under RCRA 3008(h) (several other RCRA authorities, such as Sections 3013 and 7003, can also be used). Section 3008(h) authority is not delegated to HSWA-authorized states. The cleanup program under Section 3008(h) will frequently be implemented with two orders. The first order will require the owner or operator to conduct an RFI to characterize the nature and extent of contamination, and to develop a remedy or alternative remedies as needed (the CMS). Once a remedy has been selected, a second order will require design, construction, and implementation of that remedy (the CMI).

For 3008(h) corrective actions, there are currently no regulatory public involvement requirements. However, EPA's Office of Solid Waste and Emergency Response issued "Guidance for Public Involvement In RCRA Section 3008(h) Actions" in the form of a memorandum dated May 5, 1987. This memo discusses the minimum public involvement requirements for EPA to follow once a facility has performed the RFI and the CMS and has submitted the CMS report and proposed remedy to EPA. Further, EPA expects to use its proposed corrective action regulations (55 FR 30799-30884) as interim guidelines and may thus require preparation of a public involvement plan and an information repository for corrective action at interim status facilities.

Public Involvement in the RCRA Corrective Action Process. During the RFA, EPA or State investigators gather information to determine whether there are releases that warrant further investigation or other action. It may be that DOE staff, rather than EPA or the State, will perform these investigations themselves as a result of environmental audits, surveys, self assessments, or Tiger Team visits, or at the request of EPA or the State. While there are no formal public involvement requirements during the RFA, DOE is recommending that a spokesperson be identified who will inform the community of project activities and findings throughout the RFA and the corrective action process, respond to questions, and provide information to residents and the media. DOE is also recommending that either a press release or a fact sheet be issued announcing the completion of the RFA, the results, and any future activities planned. A mailing list should also be established. Public participation activities recommended by DOE during this process are described in Section 4.1.2.

Table 3.2. Summary of Milestones and Public Involvement Activities for EPA or State Regulators^(a) During the RCRA Permit Process (EPA 1986)^(b)

<u>Permit Milestone</u>	<u>Required Activities^(c)</u>	<u>Suggested Activities (for Regulators)</u>
Submission of permit application/modification	<ul style="list-style-type: none"> • Mailing list 	<ul style="list-style-type: none"> • Field assessment • Public involvement plan • Introductory notice • Information repository • Informal meetings • Fact sheet on facility
Completion of draft permit/ modification or intent to deny	<ul style="list-style-type: none"> • Fact sheet/statement of basis • Public notice of permit actions and public hearing • Public comment period (45 days) • Public hearing (if requested) 	<ul style="list-style-type: none"> • Informal meetings
Issuance or denial of permit/ modification	<ul style="list-style-type: none"> • Notice of decision • Response to comments 	
Final determination of permit/ modification		<ul style="list-style-type: none"> • Update of public involvement plan • Update of repository • Informal meetings • Publications as needed (fact sheets, press releases, etc.)

(a) The State may have different regulations if it has been delegated corrective action permitting authority.

(b) Table has been modified.

(c) Requirements under RCRA Section 7004 and 40 CFR 124, Subpart A.

Following the RFA, when directed by EPA or the State, DOE will initiate an RFI to determine the nature and extent of releases from solid waste management units. The RFI is analogous to the RI specified under CERCLA and concludes with an RFI report. EPA's guidance (1988c) specifies that a public involvement plan for the "dissemination of information to the public regarding investigation activities and results" be developed by the owner or operator and included as part of the RFI work plan. DOE is recommending that the public involvement plan be based on interviews with potentially affected residents, local officials, and other interested community parties. DOE is also recommending that an information repository and an administrative record be established, that the public be notified of their availability and that a fact sheet be issued.

As currently proposed in Subpart S of 40 CFR 264, EPA refers to the term "administrative record" in a manner similar to that used under CERCLA; that is, the administrative record provides the documentation for the basis of EPA's decisions relevant to RCRA. However, for sites undergoing RCRA corrective action, the administrative record will be maintained by the regulators (i.e., EPA or the authorized State). Since the administrative record limits the judicial review of a corrective action, it is imperative that DOE facilities also maintain all decision-making documentation as well (i.e., a copy of the administrative record).

An information repository will only be required for RCRA corrective actions on a case-by-case basis by the EPA or authorized State depending on the extent of contamination and public interest. However, DOE is

When the RFI is completed and the regulator has approved DOE's RFI report, DOE is recommending that a fact sheet be issued describing the findings of the RFI report. A public meeting may also be held if there is sufficient community interest, and a press release might be issued to announce the findings of the RFI report and the date, time, and location for the public meeting.

Once the regulator has approved DOE's RFI report, DOE is usually directed to undertake a CMS to develop and evaluate the corrective action measure(s) to be taken at the facility. The CMS is analogous to the FS required under CERCLA. Upon completion of the study, DOE will submit a CMS report that includes proposed corrective measure(s) for regulatory approval.

Once the regulator has approved a proposed corrective measure, a new or amended 3008(h) order is issued requiring DOE to proceed with the CMI, or the RCRA permit is modified in order to proceed with the CMI. As explained earlier, the regulators will perform certain public involvement activities, discussed below, connected with either the 3008(h) order or the permit. While the regulatory agency is primarily responsible for public involvement efforts at this point, DOE may be assigned some of these or additional public involvement activities through the permit modification, the 3008(h) order, or as part of the FFA negotiations.

For 3008(h) corrective actions, following DOE's submission of the RFI and CMS reports to EPA, EPA will develop a "statement of basis," which describes the proposed corrective measure(s) and summarizes the alternatives considered, or will propose that no action is necessary. The EPA will generally perform the following: 1) publish a notice and brief analysis of the statement of basis for the proposed corrective measure(s), or of its proposal that no action is necessary, and make such information available to the public; 2) provide a reasonable opportunity (30-45 days) for submission of written comments; 3) hold a public meeting on the proposed corrective measure(s) if the EPA regional administrator deems it appropriate, or at the request of the public;

and 4) prior to issuance of the initial order for corrective measure implementation, prepare a response to comments to provide a complete summary of comments received from the public accompanied by the regulator's responses to the comments.

The public involvement requirements for regulators to follow during the permit modification process are outlined in the EPA's *Guidance on Public Involvement in the RCRA Permitting Process* (EPA 1986), discussed earlier and summarized in Table 3.2. Again, States with corrective action authority may have different requirements. With some exceptions, the process is similar to that for 3008(h) actions.

Once the modified permit or amended order is in place, DOE initiates the CMI process. The goal of the process is to design, construct, operate, maintain, and monitor the performance of the corrective measure(s) selected. The first step calls for DOE to develop a CMI work plan for approval by the regulatory agency and then follow through with actual design and implementation of the corrective measure. During the design stage, EPA's guidance (1988c) directs DOE to revise the public involvement plan to address any changes in the level of concern or information needs in the community during design and construction activities. At the completion of the design stage, a public notice and an updated fact sheet should also be prepared and distributed by DOE. During the construction stage, EPA suggests that, depending on the level of citizen interest, public involvement activities could range from group meetings to fact sheets on the technical status of construction.

Interim Measures. Regulators also have the option to include interim measures for corrective action in orders and permits at any point where response is appropriate prior to completion of the RFI/CMS. EPA's guidance, *RCRA Corrective Action Interim Measures Guidance* (1988b) is a review of corrective actions available for quickly addressing problems. If the scope and/or complexity of the interim action warrant, the regulator may require a public involvement plan.

3.3 NEPA PUBLIC INVOLVEMENT REQUIREMENTS

One of the Secretary of Energy's 10-Point Initiatives, announced in June 1989, was "improving the way in which DOE complies with NEPA documentation and coordinating its NEPA activities with the governors of the States that host DOE facilities." To accomplish these objectives, the Secretary of Energy issued Secretary of Energy Notice 15-90 (SEN-15) (DOE 1990b) on February 5, 1990. SEN-15 directs that revisions be made in DOE's NEPA compliance procedures, including revisions to DOE Order 5440.1C (DOE 1985) and the DOE NEPA guidelines (52 FR 240). A revised Order, 5440.1D (DOE 1991), was issued on February 22, 1991. The revised DOE NEPA guidelines were published for public comment as proposed regulations on November 2, 1990 (55 FR 46444). SEN-15 also states that each Headquarters Office having NEPA responsibilities and each Field Office will augment its environmental compliance staff, as appropriate, so that a variety of environmental disciplines are sufficiently represented to ensure proper supervision of NEPA document preparation so that documents are technically complete and accurate before EH review. In addition, SEN-15 directs that a NEPA compliance officer be designated in each Headquarters Office having NEPA responsibilities and in each Field Office. SEN-15 also provides that DOE will notify host States and, adjacent States as appropriate, of initial determinations regarding the level of NEPA documentation for all proposed DOE projects in the State. A March 2, 1990, EH-1 memorandum on "Interim Procedural Guidance for Implementation of

for Implementation of SEN-15-90" and a September 2, 1990, EH-1 memorandum on "Supplemental Interim Procedural Guidance for Implementation of SEN-15-90" outline procedures for State notification.

The following discussion highlights public involvement requirements of the Council on Environmental Quality's (CEQ's) NEPA regulations (40 CFR 1500-1508), additional requirements under SEN-15 (DOE 1990b), and other DOE policies and procedures. EH has oversight responsibility for NEPA compliance, and many of the NEPA activities will be coordinated through that office. Applicable EH guidance is cited for implementing NEPA public involvement requirements.

NEPA requires that the public and other federal agencies be involved in the NEPA review process. Requirements for preparation of an EIS are codified in 40 CFR 1502; procedures for soliciting and responding to comments in the EIS process are codified in 40 CFR 1503. The CEQ regulations, contained in 40 CFR 1506.6, discuss procedures for public notification of all NEPA documents, including EISs. DOE also has a *Draft NEPA Compliance Guide* (DOE 1988) (two volumes) that should be reviewed for specific details on involving the public in the NEPA review process. (Volume 1 is out of print but sections will be provided upon request.)

There are three levels of review under NEPA. One level, a categorical exclusion, is used for actions that normally do not individually or cumulatively have a significant effect on the quality of the human environment, and which require neither an EIS nor an environmental assessment (EA).

Another level of NEPA review is an EA, prepared when it is unclear whether a proposed action requires preparation of an EIS. SEN-15 states that each EA for proposed DOE actions will be provided to the host State and, as appropriate, adjacent States for a 14-30 day pre-approval review (DOE 1990b). The length of the comment period will depend on the nature of the project evaluated in the EA and the extent of the analyses contained therein.

Based upon an approved EA, a decision is made to prepare either an EIS or a finding of no significant impact (FONSI). A FONSI is prepared by DOE to document the decision not to prepare an EIS. DOE must notify the public of the availability of both an EA and a FONSI. The EA or a summary must be included as part of the FONSI. There are also situations where a proposed FONSI is made available for public review and comment [40 CFR 1501.4(e)]. The *Draft NEPA Compliance Guide* (DOE 1988), Volume I, Section III-9, details DOE procedures for announcing the availability and distribution of NEPA documents.

The third level of NEPA review, an EIS, is prepared for major federal actions that may significantly affect the quality of the human environment. When proposed DOE actions, such as certain environmental restoration activities, require EIS preparation, a notice of intent (NOI) is published in the *Federal Register* to let the public know that an EIS will be prepared. The NOI invites comments and suggestions on the proposed scope of the EIS, including environmental issues and alternatives, and invites participation in the NEPA process. In addition, efforts should be made to notify and involve the public, including announcement in local newspapers of the publication of the NOI and letters to interested or affected federal, State and local government officials; interested citizens; community groups; and Indian Tribes [see 40 CFR 1506.6 and the *Draft NEPA Compliance Guide*, Volume I, Section III-9 (DOE 1988)]. The *Draft NEPA Compliance Guide* (DOE 1988), Volume I, Section III-6, details procedures for scoping and provides examples of an NOI.

Publication of the NOI initiates a public scoping period and the EIS process. Scoping is a process that solicits public input to the EIS process to ensure that 1) issues are identified early and properly studied;

2) issues of little significance do not consume time and effort; 3) the draft EIS is thorough and balanced; and 4) delays occasioned by an inadequate draft EIS are avoided (40 CFR 1501.7). In DOE, the scoping process includes a scoping meeting and a 30-day comment period. The result of the scoping process is an EIS implementation plan that provides guidance for preparation of the EIS and is made public for information purposes (DOE 1990b). The *Draft NEPA Compliance Guide* (DOE 1988) Volume I, Section III-7, details the preparation of an EIS implementation plan and provides an example. The March 2, 1990, EH memorandum on "Interim Procedural Guidance for Implementation of SEN-15-90" includes procedures for making EIS implementation plans public.

The public must be given the opportunity to comment on the draft EIS during a minimum 45-day comment period (40 CFR 1506.10). In addition, SEN-15 requires a public hearing on all draft EISs (DOE 1990b). At least 15 days notice must be given. EH-25 will file the draft EIS with EPA *after* the document has been distributed to the interested agencies and the public. The *Draft NEPA Compliance Guide* (DOE 1988) Volume I, Section III-9, details DOE procedures for announcing the availability of, and for distributing, NEPA documents. EPA will publish a weekly notice of availability in the *Federal Register* of all draft EISs filed the preceding week. The EPA notice is the official start of the 45-day comment period on a draft EIS. According to 40 CFR 1506.10, no decision on the proposed action shall be made or recorded until 90 days after publication by EPA of the notice of filing of a draft EIS. The *Draft NEPA Compliance Guide*, Volume I, Section III-9, details procedures for announcing DOE activities, and Sections III-10 and III-11 detail procedures for a DOE notice of availability and DOE hearings (DOE 1988).

Following the conclusion of the draft EIS comment period, a response to comments should be written and included in the final EIS (40 CFR 1503.4). All substantive comments (or summaries of comments if voluminous) must also be attached to the final EIS.

EH-25 files the final EIS with EPA *after* the document has been distributed to the interested agencies and the public. EPA publishes a weekly notice of availability in the *Federal Register* of all final EISs filed the preceding week. Under 40 CFR 1503.1, DOE may request comments on a final EIS, but it is not obligated to do so. According to 40 CFR 1506.10, no decision on the proposed action shall be made or recorded until 30 days after publication by EPA of the notice of filing of a final EIS.

Following the 30-day period, DOE prepares a public ROD stating the decision, identifying all alternatives considered by DOE in reaching its decision, and identifying the environmentally preferable alternative. It is DOE policy to publish the ROD in the *Federal Register* and make it available to the public, consistent with 40 CFR 1506.6 and the DOE NEPA guidelines, Section B.2.a.5. The *Draft NEPA Compliance Guide* (DOE 1988), Volume I, Section III-9, details DOE procedures for announcing the availability of, and for distributing, NEPA documents; Section III-12 discusses the ROD.

3.4 INTEGRATION OF CERCLA AND RCRA

A federal facility with inactive sites subject to both CERCLA and RCRA may choose to conduct required technical and public participation activities simultaneously. The integration of public participation requirements under these two statutes may help simplify the complex and perhaps confusing aspects of the process for the public. Integration offers the opportunity to avoid duplication of effort if CERCLA and RCRA activities are on concurrent schedules. Integration may also offer the opportunity to avoid conflicts in analyses by conducting research and analyses simultaneously.

To accommodate both CERCLA and RCRA technical requirements, DOE and EPA have established the concept of the FFA. The FFA is the preferred framework for negotiations among EPA, other federal agencies acting as lead agencies, and the State to reach a binding agreement that sets forth cleanup requirements, schedules, and responsibilities connected with a specific installation. The scope of any such agreement 1) incorporates the concept of the interagency agreement from CERCLA that describes the cleanup action selected, 2) broadens the concept to encompass assessment activities, 3) sets forth the requirements and schedule for such activities, and 4) assigns specific responsibilities to DOE, EPA, and the State.

In many cases, State programs have been given authority under RCRA to regulate hazardous waste management activities (per RCRA Section 3009). Each FFA identifies the regulatory authority--federal or State--under which the environmental restoration response is taken or how the two statutes will be integrated so the requirements of both are met. The FFA should include provisions for public participation activities to be conducted at the facility. Any plan drafted should be consistent with stipulations of the FFA.

3.5 INTEGRATION OF CERCLA AND NEPA

Pursuant to DOE Order 5400.4, Section 7.d., "Comprehensive Environmental Response, Compensation, and Liability Act Requirements" (DOE 1989a), where DOE remedial actions under CERCLA trigger the procedures set forth in NEPA, it is the policy of DOE to integrate the procedural and documentation requirements of CERCLA and NEPA, wherever practical. The primary instrument for this integration will be the RI/FS process. If needed, the RI/FS process will be supplemented to meet the procedural and documentation requirements of NEPA. In particular, this section of the Order states that the public review processes of CERCLA and NEPA will be combined for RI/FS-NEPA documents, where appropriate. For example, when integrating the CERCLA RI/FS and NEPA EIS processes, the 45-day comment period required for the draft EIS should be folded into the CERCLA public comment period (at least 30 days and potentially 60 days) for the proposed plan so that the public reviews an integrated RI/FS-EIS document. A key element of the integrated process is determining the level of NEPA documentation that is required for a remedial action project before entering the RI/FS scoping process, or as soon as possible thereafter, so that the appropriate RI/FS-NEPA planning is started early in the process.

On October 26, 1990, EH-20 distributed "Proposed Guidance on Implementation of the DOE NEPA/CERCLA Integration Policy" for comment to DOE Headquarters and Field Offices. This memorandum provided information on recent developments related to the NEPA/CERCLA issue and stated that, unless there was a fundamental change in the position of the CEQ, the policy stated in DOE Order 5400.4 would remain in effect. The memorandum also proposed more definitive guidance on how to accomplish integration.

This proposed guidance establishes a process of tiering NEPA documents from one level of decision making to another. At the top of the pyramid is the *programmatic EIS* on a DOE-wide strategy for environmental restoration and waste management, which will address major policy issues such as storage and disposal alternatives and cleanup prioritization. *Site-wide EISs* (either all-encompassing or focusing on environmental restoration activities) will address the individual and cumulative impacts of locating treatment, storage, and disposal facilities at specific sites.

At the bottom of the NEPA pyramid are the large numbers of individual cleanup projects. Integrated NEPA/CERCLA documents should be prepared to address the impacts of individual cleanup actions, normally by operable unit. EH expects that a large majority of these cleanup actions will be adequately covered for NEPA purposes by a categorical exclusion or by adoption of the RI/FS or engineering evaluation/cost analysis, which is prepared pursuant to CERCLA and would be the equivalent of the NEPA EA and the issuance of a FONSI. These integrated documents should specify that they have been prepared to satisfy the requirements of both NEPA and CERCLA. EH also envisions the same process for integrating NEPA and RCRA activities.

3.6 INTEGRATION OF STATE REGULATORY REQUIREMENTS

DOE should coordinate closely with the regulating State agencies regarding the federal cleanup activities being conducted. The FFA is DOE's primary vehicle for coordinating with the State and should identify the regulatory relationship between the facility and the State. FFAs provide a framework for reaching a binding agreement that sets forth and integrates State and federal cleanup requirements, schedules, and responsibilities when both RCRA and CERCLA activities are driving environmental restoration activities. FFAs encompass the CERCLA-required interagency agreements (IAGs).

Some facilities have been successful at developing and maintaining cooperative relationships with State authorities through concerted efforts that include the development of an FFA; regular briefings among EPA, State, and facility personnel; and joint presentations at public meetings. Facilities are encouraged to work collaboratively with regulating State agencies whenever possible.

Under RCRA, States have the authority to develop regulations that are more restrictive than federal requirements (RCRA Section 3009). The FFA should at least identify any State regulations that exceed the federal clean-up requirements and identify how the facility will meet these requirements.

4.0 PROCESS MILESTONES AND CORRESPONDING PUBLIC PARTICIPATION ACTIVITIES AT DOE FACILITIES

The purpose of this section is to provide a milestone-oriented discussion of the public participation requirements and activities relevant to DOE's environmental restoration programs. These programs are regulated under CERCLA, RCRA, and NEPA.

This section is organized to be used as a checklist. However, the reader should refer to those subsections in Section 3.0 that provide explanations for each of the public participation requirements and to Appendix A, which provides key points in implementing the activities. Beyond required activities, public participation during each phase of restoration activities should be custom-tailored to the site, stressing two-way communication activities to the extent feasible.

For clarification purposes three charts have been provided in this chapter, each illustrating where specific public participation activities occur in the RCRA, CERCLA, and NEPA process. These graphics should not be relied upon to portray the entire technical process; however, they do provide some visual clarification. The activities may occur at the beginning, the end, or throughout the step they are listed under. Some activities are ongoing and occur throughout the whole process. The reader should refer to the CERCLA, RCRA, and NEPA sections below for detailed and specific information.

4.1 MILESTONES AND PUBLIC PARTICIPATION ACTIVITIES

This section describes public participation activities for CERCLA, RCRA, and NEPA programs by milestones in each program. The information following each milestone is listed in three categories of public participation activities: current statutory or regulatory requirements, DOE or EPA guidance, and suggested additional activities.

- 1. Current Requirements** - The category lists the minimum public participation requirements of the given statute and the implementing regulations, such as the National Contingency Plan (40 CFR 300) or CEQ regulations, and DOE orders and notices. These activities, which are discussed in detail also in Section 3.0, must be carried out to comply with the law.
- 2. DOE and/or EPA Guidance** - This category lists and briefly describes the public participation activities that DOE Headquarters recommends be conducted at each milestone. It also includes several public participation activities detailed in EPA's Community Relations Handbook (EPA 1988a). These activities go beyond the minimum requirements of the law and provide for a comprehensive and visible public participation program in accordance with DOE's objectives as advocated by EM and EH in a memorandum on "Public Participation in the Department of Energy's Environmental Activities," dated April 16, 1990. It is expected that DOE will follow these recommendations as appropriate to the level of public interest at a particular site.
- 3. Suggested Additional Activities** - This category identifies and briefly describes public participation activities that might be implemented over and above statutory requirements or DOE and EPA guidance. These should be considered if site-specific circumstances (e.g., controversy) indicate that additional public participation activities are needed.

- 4. Ongoing Activities** - Several of the activities provided in the DOE guidance and the suggested additional activities categories will be implemented on an ongoing basis throughout the project. These are noted where appropriate.

Although the public participation activities for each environmental statute are presented separately, there will be instances when milestones under CERCLA, RCRA, and NEPA are concurrent. This is particularly true of the CERCLA remedial response and RCRA corrective action programs because they have similar milestones. Therefore, the public participation plan, discussed in EM's five-year plan (DOE 1989b), can be used as an umbrella to fulfill the statutory requirements and/or DOE or EPA guidance for more than one program. As a rule, DOE public participation personnel should identify these situations and, if appropriate, integrate public participation activities across the applicable statutes. This type of integration is a DOE public participation priority; it is efficient and avoids unnecessary duplication of effort, and minimizes public confusion over the myriad of DOE environmental restoration activities. For example, a fact sheet issued as a major milestone in the CERCLA process might also include a section updating the reader on recent and upcoming events pertaining to the RCRA corrective action project under way at the same facility. Briefings for local officials might address current sampling and investigative field activities conducted as part of the CERCLA and RCRA programs. There are numerous opportunities for this type of integration throughout a CERCLA remedial response and RCRA corrective action program.

In addition to the requirements, guidance, and suggestions discussed above, DOE personnel involved with a public participation program must identify the public participation requirements of the State in which the facility is located. The DOE facility must be in compliance with these requirements as well. Opportunities for integration of public participation activities required by the State with those required by the federal government should be optimized to avoid unnecessary confusion among the public.

At a facility with an FFA, the FFA provides specific information on the role and responsibilities of all the parties involved in the project, including DOE, EPA, and the State. The FFA will typically provide general information on the public participation activities to be conducted and who will conduct them.

4.1.1 CERCLA Milestones and Public Participation Activities

The following activities are derived from CERCLA, as amended by SARA, the National Contingency Plan (40 CFR 300), and EPA's Community Relations Handbook (EPA 1988a), using associated remedial or removal action milestones. Figure 4.1 provides a graphic summary of CERCLA remedial action milestones and public participation activities.

CERCLA Milestone: Removal Actions Lasting Longer than 120 Days

Current Requirements

- **Spokesperson** - A spokesperson must be identified who will provide information to the community and the media about the removal action and respond to questions.
- **Community Relations Plan** - Community interviews must be conducted and a community relations plan must be prepared.

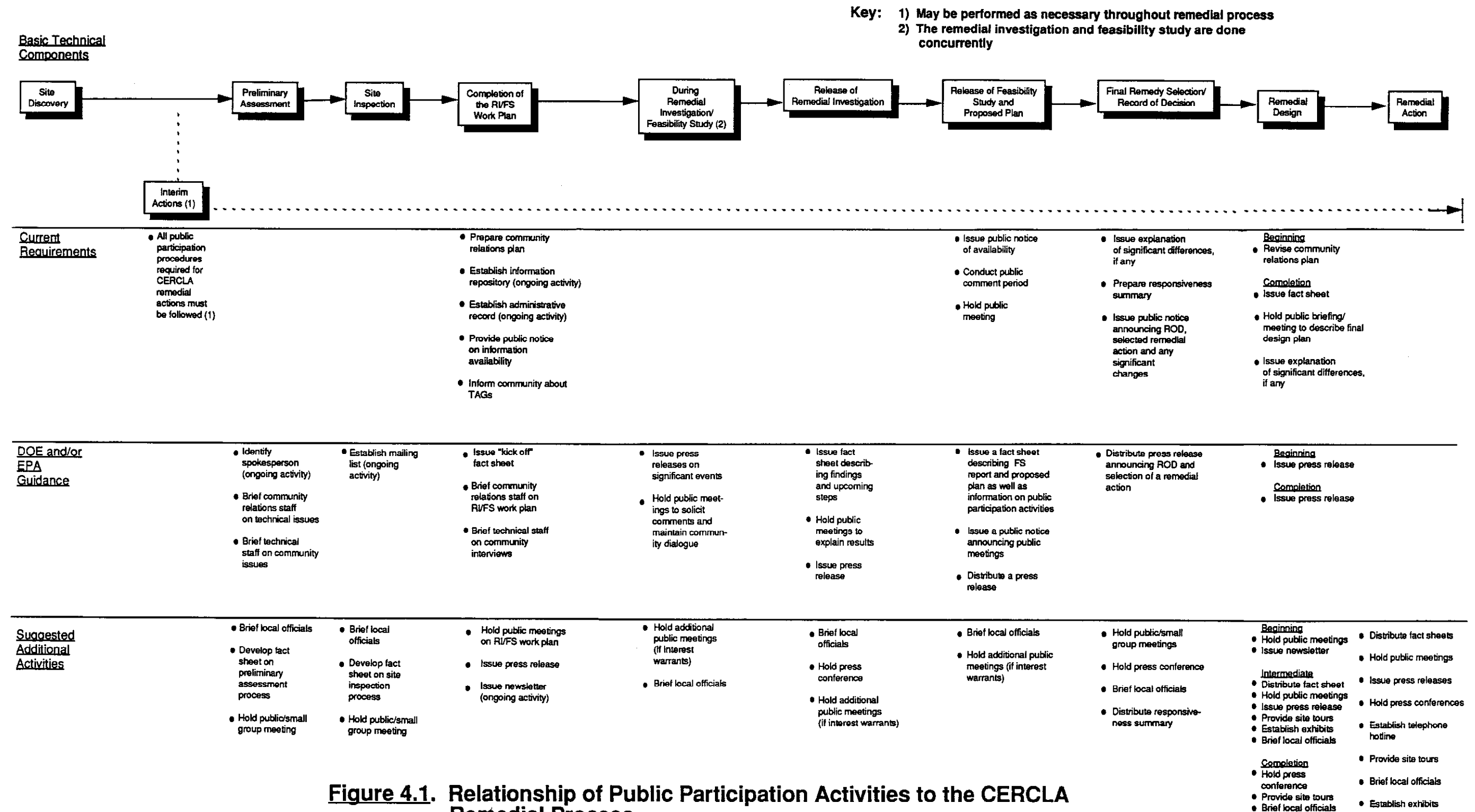


Figure 4.1. Relationship of Public Participation Activities to the CERCLA Remedial Process

- **Information Repository** - An information repository must be established near the site so that all information pertaining to the removal action is readily available to interested parties.
- **Administrative Record** - An administrative record must be established at or near the site; it must contain the informational materials upon which the selection of the response action will be based.
- **Public Notice** - A public notice must be issued to announce the availability of the information in the site information repository and administrative record.

DOE Guidance

- **Press Releases** - Press releases should be issued to the media at the initiation and completion of a removal action, as well as at any other significant milestone during the removal.

Suggested Additional Activities

- **Press Conference** - A press conference might be held to brief the media on the removal action and to respond to questions.
- **Briefing** - A briefing might be held to inform local officials of activities at the site and to respond to questions.

CERCLA Milestone: Removal Actions Beginning in Less than 6 Months (i.e., Emergency and Time-Critical)

Current Requirements

- **Spokesperson** - A spokesperson must be identified who will provide information to the community and the media about the removal action and respond to questions.
- **Administrative Record** - An administrative record must be established near the site; it must contain the information materials upon which the selection of the response action will be based. The record should be established within 60 days of the initiation of onsite activities.
- **Public Notice** - A public notice must be issued to announce the availability of the information in the administrative record.
- **Public Comment Period** - A minimum 30-day comment period must be conducted on the removal action at the time the administrative record is made available.
- **Written Response** - DOE should prepare a written response to comments.

**CERCLA Milestone: Removal Actions Beginning in 6 Months or More
(i.e., Non-Time-Critical)**

Current Requirements

- **Spokesperson** - A spokesperson must be identified who will provide information to the community and the media about the removal action and respond to questions.
- **Community Relations Plan** - Community interviews must be conducted and a community relations plan must be prepared.
- **Information Repository** - An information repository must be established near the site so that all information pertaining to the removal action is readily available to interested parties.
- **Administrative Record** - An administrative record must be established near the site; it must contain the informational materials upon which the selection of the response action will be based.

All of the above activities should be conducted prior to completion of the engineering evaluation/cost analysis.

- **Public Notice** - A public notice must be issued on the availability of the engineering evaluation/cost analysis.
- **Public Comment Period** - A minimum of a 30-day public comment period on the engineering evaluation/cost analysis should be conducted (it can be extended by 15 days, upon request). A responsiveness summary should be prepared.

CERCLA Milestone: Interim Actions

Interim actions are early actions under removal or remedial authority to reduce the immediate threat to human health and the environment, or to expedite the completion of total site cleanup. Early actions using remedial authorities are initiated as operable units. These can be performed as necessary throughout the remedial process.

Current Requirements

- All public participation procedures required for CERCLA remedial or removal actions must be followed [National Contingency Plan (40 CFR 300)].

CERCLA Milestone: Remedial Action Preliminary Assessment of Site

Current Requirements

There are no required public participation activities during the preliminary assessment.

DOE Guidance

- **Spokesperson** - A spokesperson should be identified who will inform the community of site activities and findings beginning with the preliminary assessment and throughout the remedial response process, respond to questions, and provide information to residents and the media. This should be an ongoing activity.
- **Briefing** - Technical staff should brief the community relations staff on the site.
- **Briefing** - Community relations staff should brief technical staff on community issues.

Suggested Additional Activities

- **Briefing** - A briefing might be held during the preliminary assessment to inform local officials of activities involved and to respond to questions.
- **Public Meetings** - If residents express concern about site activities, public meetings might be held to establish two-way communication with those concerned parties. These could take the form of small group meetings.
- **Fact Sheet** - A fact sheet might be developed that describes the preliminary assessment process.

CERCLA Milestone: Site Inspection

Current Requirements

There are no required public participation activities during site inspection.

DOE Guidance

- **Mailing List** - A computerized mailing list should be established and maintained for the site to ensure that information is disseminated to the appropriate and interested parties, including media representatives. This should be an ongoing activity.

Suggested Additional Activities

- **Briefing** - A briefing might be held to inform local officials of activities at the site and to respond to questions.
- **Public Meetings** - If residents express concern about site activities, public meetings might be held to establish two-way communication with those concerned parties. These could take the form of small group meetings.
- **Fact Sheet** - A fact sheet might be issued that explains the purpose of the site inspection and its possible outcomes (i.e., proposal of the site for the NPL or no further action taken). The fact sheet would indicate who to contact for information about the site.

Ongoing Activities

- Spokesperson and mailing list.

CERCLA Milestone: Completion of the Remedial Investigation/Feasibility Study (RI/FS)

Work Plan

Current Requirements

- **Community Relations Plan** - A community relations plan must be prepared, based on interviews with potentially affected residents, local officials, and other interested parties, prior to commencing field work for the RI, to determine the concerns of these parties and to obtain their input on how DOE might conduct the site public participation program.
- **Information Repository** - An information repository must be established near the site so that all information pertaining to the site CERCLA program can be readily available to interested parties.
- **Administrative Record** - An administrative record must be established near the site prior to initiating the RI; it must contain the informational materials upon which the choice of a remedial response action will be based. Documents in the administrative record must be made available to the public at or near the site.
- **Public Notice** - A public notice must be issued to announce the availability of the information in the site information repository and the site administrative record.
- **Technical Assistance Grants** - The community must be informed of the availability of TAGs, and TAG information must be put into the information repository.

DOE Guidance

- **Fact Sheet** - A "kickoff" fact sheet should be issued that describes the CERCLA process, explains the site history and the RI/FS work plan, outlines the proposed project schedule, and indicates who to contact for information about the site. The fact sheet should also include information about EPA's TAG program or

a separate informational brochure on TAG should be issued.

- **Briefing** - Community relations staff should brief technical staff on information gathered during community interviews.

Suggested Additional Activities

- **Public Meetings** - A public meeting might be held to describe the CERCLA process and the RI/FS work plan, explain site history, outline the proposed project schedule, and answer questions from the public.
- **Press Release** - A press release might be issued announcing the completion of the RI/FS work plan.

- **Newsletter** - A newsletter might be issued to the mailing list on a regular basis, perhaps quarterly, throughout the RI/FS process. (This guidance assumes use of an existing newsletter; see Appendix A.)

Ongoing Activities

- Spokesperson and mailing list.

CERCLA Milestone: During the Remedial Investigation/ Feasibility Study

Current Requirements

There are no required public participation activities during the RI/FS. If a removal action is required during the RI/FS, refer to the previous discussion on removal actions.

DOE Guidance

- **Press Release** - In the event of a major unexpected occurrence, such as a fire or the discovery of significant new areas or types of contamination, a press release should be issued to explain the event and the actions proposed to address it. A press release should also be issued if the schedule for completion of the RI report changes significantly. Periodic press releases should be issued if the RI/FS is scheduled to last for several years. The press release should explain the reasons for the change in schedule, as well as describe the field investigations conducted to date. This information can also be conveyed in a fact sheet.
- **Public Meetings** - A public meeting should be held in the site community to solicit public comments on criteria for evaluating and screening FS alternatives.

Suggested Additional Activities

- **Additional Public Meetings** - If residents express concern about site activities, public meetings might be held to establish two-way communication with those concerned parties. The meetings could take the form of small group meetings held in a comfortable local meeting place or neighborhood meetings held in a home near the site.
- **Briefing** - A briefing might be held to inform local officials of DOE's activities at the site to date and to provide them with up-to-date information on the RI/FS.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Technical Milestone: Release of the Remedial Investigation Report

Current Requirements

There are no required public participation activities at the release of the remedial investigation report.

DOE Guidance

- **Fact Sheet-** A fact sheet should be issued that describes the findings of the RI and the risk assessment, which is performed during the RI. The fact sheet should also explain the upcoming steps and future opportunities for participation in decision making in the CERCLA process.
- **Public Meetings -** Public meetings should be held in the site community to explain the results of the RI and risk assessment reports and to provide an opportunity for interested parties to ask questions.
- **Press Release -** A press release should be issued announcing the availability of the RI report, the findings of the RI and risk assessment, and the date, time, and location of the public meeting.

Suggested Additional Activities

- **Briefing -** A briefing might be held for local officials prior to the public meeting to provide them with the findings of the RI and risk assessment and information on upcoming activities.
- **Additional Public Meetings -** If residents express concern about site activities, public meetings might be held to establish two-way communication with those concerned parties. These could take the form of small group meetings held in a comfortable meeting place or neighborhood meetings held in a home near the site.
- **Press Conference -** A press conference might be held to brief the media on the findings of the RI and to respond to questions.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Milestone: Release of Draft Feasibility Study and Proposed Plan

Current Requirements

- **Public Notice -** A public notice must be issued that announces the availability of the proposed plan in the administrative record and briefly describes it.
- **Public Comment Period -** A minimum 30-day comment period must be conducted to enable the public to review the FS and proposed plan and to make written and/or oral comments to DOE. A 30-day extension must be allowed if requested.
- **Public Meeting -** The opportunity for a public meeting must be provided to explain the FS report and DOE's proposed plan and to answer questions from the public; if the meeting is held during the public comment period, a transcript must be made available to the public.

DOE Guidance

- **Fact Sheet** - A fact sheet should be issued that describes the FS report and the proposed plan. The fact sheet should provide information about opportunities for public participation in the upcoming decision-making process. This should also be mailed to those persons on the mailing list.
- **Public Notice** - If a public meeting is held, a public notice should be issued that announces the date, time, and location of the meeting and dates for the public comment period.
- **Press Release** - A press release should be issued that summarizes the FS report and the proposed plan, and announces the dates for the public comment period.

Suggested Additional Activities

- **Briefing** - A briefing might be held for local officials prior to the public meeting to provide them with information on the FS, proposed plan, and upcoming activities.
- **Additional Public Meetings** - If residents express concern about site activities, public meetings might be held to establish two-way communication with those concerned parties. These could take the form of small group meetings held in a comfortable meeting place or neighborhood meetings held in a home near the site.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Milestone: Discussion of Significant Changes

Current Requirements

- After publication of the proposed plan and before adoption of the selected remedy in the ROD, if new information is made available that significantly changes the basic features of the selected remedy, the lead agency must include a discussion in the ROD of the significant changes and reasons for such changes,

or

seek additional public comment on a revised proposed plan. The public participation requirements of Section 300.430 (f)(3)(i) of the National Contingency Plan (40 CFR 300) will be followed.

CERCLA Milestone: Final Selection of Remedial Action and Record of Decision

Current Requirements

- **Responsiveness Summary** - A responsiveness summary must be prepared and attached to the ROD; it must provide DOE responses to comments received during the public comment period.

- **Public Notice** - A public notice must be issued to announce the availability of the ROD, explain the selected remedial action, and describe the reasons for any significant changes from the proposed plan.

DOE Guidance

- **Press Release** - A press release should be issued announcing the ROD and DOE's selection of a remedial action.

Suggested Additional Activities

- **Public Meetings** - Public meetings can be held to allow discussion of how public comments have been addressed. These can take the form of small group meetings or neighborhood meetings.
- **Press Conference** - A press conference might be held to brief the media on the final selection of a remedial action and ROD, and to respond to questions.
- **Briefing** - A briefing might be held for local officials to provide them with specific information on the remedial action and on upcoming remedial design/remedial action activities.
- **Summary** - The responsiveness summary might be distributed to the mailing list of commenters.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Milestone: Beginning of the Remedial Design

Current Requirements

- **Revised Community Relations Plan** - Prior to the initiation of the remedial design, the community relations plan must be reviewed and, if necessary, revised to describe further public involvement activities during the remedial design/remedial action phase that are not already provided for in the plan. For a revision, community interviews may be conducted.

DOE Guidance

- **Press Release** - If changes were made to the final remedy, a press release should be issued to explain the differences and why the changes were made. A fact sheet could also be used.

Suggested Additional Activities

- **Public Meetings** - Public meetings might be held to explain the proposed remedial design plan, outline the schedule for upcoming events, and provide an opportunity for the community to ask questions and offer suggestions on the design. If appropriate, these meetings could take the form of a small group meeting or a neighborhood meeting.

- **Newsletter** - A newsletter might be issued to the site mailing list on a regular basis, perhaps quarterly, throughout the remedial design/remedial action process.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Milestone: Intermediate Deliverables of Remedial Design

The remedial design may require months to years to complete. Between the beginning and completion of the remedial design, there may be intermediate deliverables, such as reports from the remedial design contrac-

intermediate deliverables and report on the progress of the remedial design.

Suggested Additional Activities

- **Fact Sheet** - A fact sheet might be issued that explains the status of and describes the remedial design plan and schedule for upcoming events.
- **Public Meetings** - Periodic public meetings might be held to explain the status and details of the remedial design plan, outline the schedule for upcoming events, and provide an opportunity for the community to ask questions and offer suggestions on the design. If appropriate, these meetings could take the form of a small group meeting or a neighborhood meeting.
- **Press Release** - A press release might be issued announcing the public meeting on the design plans.
- **Site Tour** - If appropriate, site tours might be conducted for residents, local officials, and the media so they can view the site and gain an understanding of where and how the remedial action technologies might be established.
- **Exhibits** - Exhibits might be established in the information repository, community library, town hall, and/or the schools that explain the CERCLA process and activities carried out to date, as well as describe the final remedy and depict, to the extent possible, how it will be implemented.
- **Briefing** - A briefing might be held for local officials to provide them with specific information on the status of the remedial response and the schedule of upcoming activities.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Milestone: Completion of the Final Design

Current Requirements

- Fact Sheet - A fact sheet must be issued that explains the final engineering design of the remedy.
- Public Briefing - If public interest warrants, a public briefing or meeting should be held before the remedial action begins to describe the final design plan, outline the schedule for upcoming events, and provide an opportunity for the community to ask questions.

DOE Guidance

- Press Release - A press release should be issued announcing the public briefing on the final design plan.

Suggested Additional Activities

- Press Conference - A press conference might be held to brief the media on the final design of the remedial action and to respond to questions.
- Site Tour - If appropriate, site tours might be conducted for residents, local officials, and the media so they can view the site and see where the remedial action technologies will be established.
- Briefing - A briefing might be held for local officials to provide them with specific information on the final engineering design, how it will be implemented, and the schedule of upcoming activities.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

CERCLA Milestone: Explanation of Significant Differences

Current Requirements

- Explanation of Significant Differences - If the remedial action to be taken differs significantly from the remedy selected in the ROD, but does not fundamentally alter the remedy with respect to cost, scope, or performance, DOE will publish an explanation of significant differences. A notice summarizing the explanation of significant differences will be published in a major local newspaper of general circulation and the explanation of significant differences will be available in the administrative record.

or

Amended ROD - If the remedial action to be taken fundamentally alters the remedy selected in the ROD, DOE will propose an amendment to the ROD according to procedures in the National Contingency Plan (40 CFR 300), Sec. 300.435(c)(2).

CERCLA Milestone: The Remedial Action

Current Requirements

There are no required public participation activities during the remedial action.

DOE Guidance

There are no recommended public participation activities during the remedial action.

Suggested Additional Activities

A variety of public participation activities may be conducted at the beginning, throughout, and at the completion of the remedial action phase. Public interest often is heightened at commencement of the remedial action. The public and local officials need to be kept informed of activities, schedule changes, and new findings at the site. In addition, the environmental restoration project manager and other PSO and Project Offices with environmental restoration responsibilities may want to ensure that additional information is provided on issues of community concern. These concerns may change over the course of the remedial action.

- **Fact Sheets** - Fact sheets might be issued periodically to describe progress, schedule changes, and discuss new issues at the site.
- **Public Meetings** - Public meetings might be held to discuss site issues, especially at the onset of remedial action. If appropriate, these meetings can take the form of small group meetings or neighborhood meetings.
- **Press Releases** - Press releases might be issued to the media and sent to those on the mailing list to announce site developments and other events, as well as any public meetings.
- **Press Conferences** - Press conferences might be held periodically to brief the media on the implementation of the remedial action and to respond to questions.
- **Telephone Hotline** - If community and media interest and concern about the site are high, a telephone hotline might be installed to provide an opportunity to ask questions and register complaints about site activities.
- **Site Tour** - If appropriate, site tours might be conducted for residents, local officials, and the media so they can view the remedial action response in progress.
- **Briefing** - Periodic briefings might be held for local officials to provide them with specific information on the implementation of the remedial action and the schedule of upcoming activities.
- **Exhibits** - Exhibits might be established in the information repository, community library, town hall, and/or the schools to explain the CERCLA process and activities carried out to date, as well as describe the progress of the remedial action.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

4.1.2 RCRA Corrective Action Milestones and Public Participation Activities

The following requirements are derived from RCRA, as amended by HSWA, RCRA regulations, and EPA's guidance on corrective action (EPA 1988c) and *Guidance for Public Involvement In RCRA Section 3008(h) Actions* (EPA 1987) using associated corrective action milestones. While some activities will be performed by DOE, most activities will be performed by the regulators during the process for corrective action orders or permit modifications. Because some activities may be assigned to DOE in the permit or order, or negotiated into the FFA, they are included for the sake of information. Again, States with corrective action authority may have different requirements that apply. Figure 4.2 provides a graphic summary of RCRA corrective action milestones and public participation activities.

RCRA Milestone: The RCRA Facility Assessment

Current Requirements

There are no required public participation activities during the RCRA facility assessment.

DOE Guidance

- Spokesperson - A spokesperson should be identified who will inform the community of project activities and findings throughout the corrective action process, respond to questions, and provide information to residents and the media. Similar to the CERCLA process, this should be an ongoing activity.
- Press Release - A press release should be issued announcing the completion of the RFA, the results, and any future planned activities. This information could also be conveyed in a fact sheet.
- Mailing List - A computerized mailing list should be established and maintained for the facility to ensure that information is disseminated to the appropriate and interested parties, including media representatives. This should be an ongoing activity and should be coordinated with the regulatory agencies' mailing lists.

RCRA Milestone: Interim Corrective Measures

The purpose of interim corrective measures is to expeditiously abate or remove the threat to human health and the environment presented by releases. These may be performed as necessary throughout the corrective action process.

Current Requirements

There are no public participation activities required by law during implementation of an interim corrective measure.

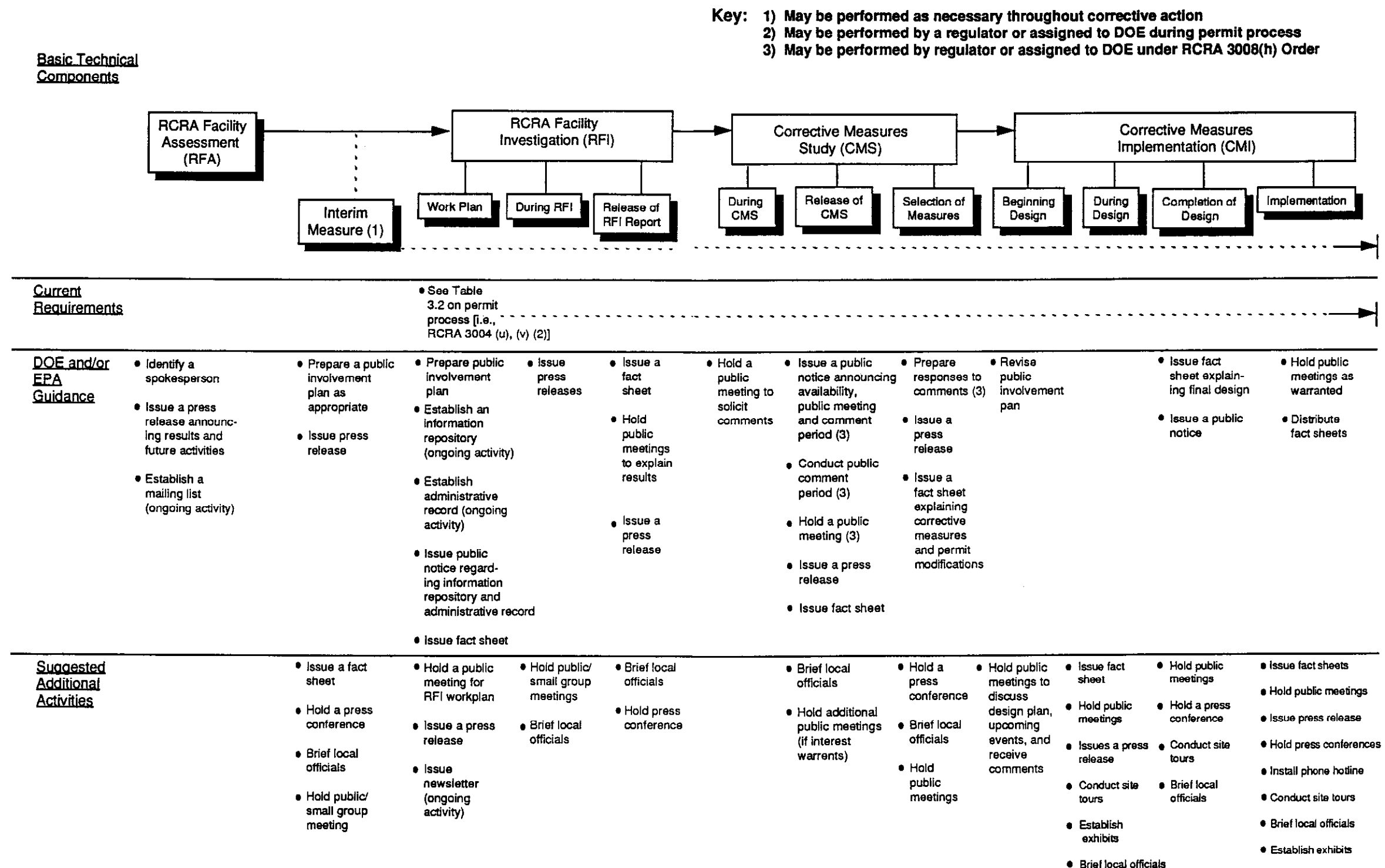


Figure 4.2. Relationship of Public Participation Activities to the RCRA Corrective Action Process

Current EPA Guidance (EPA 1988b)

- Prepare a public involvement plan, as appropriate.

DOE Guidance

- Press Releases - Press releases should be issued at the initiation and completion of an interim corrective measure.

Suggested Additional Activities

- Fact Sheet - A fact sheet might be issued to explain the interim corrective measure.
- Press Conference - A press conference might be held to brief the media on the interim corrective measure and to respond to questions.
- Briefing - A briefing might be held for local officials to inform them of interim corrective measure activities and to respond to questions.
- Public Meetings - If residents express concern about site activities, public meetings can be held to establish two-way communication with those concerned parties. These can take the form of small group meetings or neighborhood meetings.

RCRA Milestone: Completion of the RCRA Facility Investigation Work Plan

Current Requirements

There are no required public participation activities after completion of the RFI work plan.

Current EPA Guidance (EPA 1988c)

- Public Involvement Plan - A public involvement plan should be prepared by DOE, based on interviews with potentially affected residents, local officials, and other interested parties, to determine their concerns and obtain their input on how DOE might conduct the facility public participation program.

DOE Guidance

- Information Repository - An information repository should be established near the facility so that all information pertaining to the corrective action program can be readily available to interested parties.
- Administrative Record - EPA or the authorized State will maintain an administrative record of information upon which remedy selection will be based. Since the record limits the judicial review of a corrective action, it is imperative that DOE maintain a copy of the administrative record as well.

- **Public Notice** - A public notice should be issued to announce the availability of the information in the information repository and the administrative record.
- **Fact Sheet** - A "kick-off" fact sheet should be issued that describes the RCRA corrective action process, explains the facility history and the RFI work plan, outlines the proposed project schedule, and indicates who to contact for information about the site.

Suggested Additional Activities

- **Public Meetings** - Public meetings might be held to describe the RCRA process and the RFI work plan, explain facility history, outline the proposed project schedule, and answer questions from the public.
- **Press Release** - A press release might be issued announcing the completion of the RFI work plan.
- **Newsletter** - A newsletter might be issued to those on the mailing list on a regular basis, perhaps quarterly, throughout the RFI, the CMS process, and the design and implementation process. (This guidance assumes use of an existing newsletter; see Appendix A.)

RCRA Milestone: During the RCRA Facility Investigation

Current Requirements

There are no required public participation activities during the RFI.

DOE Guidance

- **Press Release** - A press release should be issued to explain any interim findings, or, if appropriate, announce that corrective action activities have stopped because of a determination that releases from the facility pose no threat to health or the environment. A press release should also be issued if the schedule for completion of the RFI changes significantly. Periodic press releases should be issued if it is scheduled to last for several years. The press release should explain the reasons for the change in periodic press releases, as well as describe the investigations conducted to date. This information can also be conveyed in a fact sheet.

Suggested Additional Activities

- **Public Meetings** - If residents express concern about facility activities, such as interim findings, public meetings might be the most effective way to establish two-way communication with those concerned parties. If appropriate, the meetings could take the form of a small group meeting held in a comfortable local meeting place or a neighborhood meeting held in a home near the facility.
- **Briefing** - A briefing might be held to inform local officials of DOE's activities at the facility to date and to provide them with up-to-date information on the RFI.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

RCRA Milestone: Release of the RCRA Facility Investigation Report

Current Requirements

There are no public participation activities required by law at the release of the RFI report.

DOE Guidance

- **Fact Sheet** - A fact sheet should be issued that describes the findings of the RFI report. The fact sheet should also explain the upcoming steps and future opportunities for participation in decision making in the RCRA corrective action process.
- **Public Meeting** - A public meeting should be held in the site community to explain the results of the RFI report and to provide an opportunity for interested parties to ask questions.
- **Press Release** - A press release should be issued to announce the findings of the RFI report and the date, time, and location for the public meeting.

Suggested Additional Activities

- **Briefing** - A briefing might be held for local officials prior to the public meeting to provide them with the findings of the RFI report and of upcoming activities.
- **Press Conference** - A press conference might be held to brief the media on the findings of the RFI report and to respond to questions.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

RCRA Milestone: Release of Corrective Measures Study Report and Development of the Statement of Basis

Once the regulator has approved DOE's RFI report, DOE may be directed to undertake a CMS to develop and evaluate the corrective action measure(s) to be taken at the facility. EPA's guidance does not specify any public involvement activities during the CMS. DOE recommends holding a public meeting in the site community to solicit public comments on criteria for evaluating and screening CMS alternatives. Upon completion of the CMS, DOE will submit a CMS report that includes proposed corrective measures for regulatory approval. The following are public involvement guidelines that the regulators should follow for corrective action orders or permit modifications. Because some of these may be assigned to DOE in the permit or corrective action order, or negotiated into the FFA, they are included for information purposes.

Current Requirements

For corrective actions under RCRA 3004(u) or (v), the public involvement requirements for regulators as part of permit modifications are summarized in Table 3.2. Authorized States may have different

Current EPA Guidance for 3008(h) Actions (performed by EPA)

- **Public Notice** - A public notice should be issued that announces the availability of and briefly describes the CMS and statement of basis. The notice must also announce the date, time, and location of the public meeting, and dates for the public comment period.
- **Public Comment Period** - A 30 to 45 day comment period should be conducted by EPA to enable the public to review the CMS and statement of basis and make written and/or oral comments on the proposed corrective measure(s).
- **Public Meeting** - At EPA's discretion or the request of the public, the opportunity for a public meeting may be provided to explain the proposed corrective measure(s) and to answer questions from the public.

DOE Guidance

- **Press Release** - A press release should be issued that summarizes the CMS report and statement of basis and announces the dates for the public comment period.
- **Fact Sheet** - A fact sheet should be issued that summarizes the CMS report and statement of basis and outlines opportunities for public participation in the upcoming decision-making process.

Suggested Additional Activities

- **Briefing** - A briefing might be held for local officials prior to the public meeting to provide them with information on the CMS and statement of basis and upcoming activities.
- **Additional Public Meetings** - If residents express concern about site activities, public meetings might be held to establish two-way communication with those concerned parties. The meetings could take the form of small group meetings held in a comfortable local meeting place or neighborhood meetings held in a home near the site.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

RCRA Milestone: Selection of Corrective Measures and Response to Comments

Current Requirements

For corrective actions under RCRA 3004(u) or (v), the public involvement requirements for regulators as part of permit modifications are summarized in Table 3.2. Authorized States may have different requirements.

EPA Guidance for 3008(h) Actions (performed by EPA)

- **Response to Comments** - A response to comments should be prepared; it must provide EPA's responses to comments received during the public comment period and identify the selected corrective measure(s).

DOE Guidance

- **Press Release** - A press release should be issued announcing the selection of the corrective measures.
- **Fact Sheet** - A fact sheet should be issued that explains the selected corrective measures and any major permit modifications that will result.

Suggested Additional Activities

- **Press Conference** - A press conference might be held to brief the media on the selection of the corrective measure and to respond to questions.
- **Briefing** - A briefing might be held for local officials to provide them with specific information on the selected corrective measure and on upcoming corrective measure activities.
- **Public Meetings** - Public meetings might be held to allow discussion of how public comments have been addressed. These could take the form of small group meetings held in a comfortable meeting place or neighborhood meetings held in a home near the site.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository and administrative record.

RCRA Milestone: Beginning of Corrective Measures Design

Current Requirements

There are no required public participation activities at the beginning of the corrective measures design.

EPA Guidance (EPA 1988c)

- **Revised Public Involvement Plan** - DOE should revise the public involvement plan to address any changes in the level of concern or information needs of the community during design and construction activities. The plan should reflect knowledge of citizen concerns and involvement at this state of the process.

Suggested Additional Activities

- **Public Meetings** - Public meetings might be held to explain the proposed design plan, outline the schedule for upcoming events, and provide an opportunity for the community to ask questions and offer suggestions on the design. If appropriate, these meetings could take the form of small group meetings or neighborhood meetings.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

RCRA Milestone: Intermediate Deliverables of Corrective Measures Design

The corrective measures design may require months or years to complete. Between the beginning and completion of the design, there may be intermediate deliverables, such as reports from the design contractor at the 60% and 90% completion milestones. While there are no public participation requirements or EPA or DOE guidance for these milestones, DOE may wish to keep the public informed of these intermediate deliverables and report on the progress of the design.

Suggested Additional Activities

- **Fact Sheet** - A fact sheet might be issued that explains the status of and describes the design plan and schedule for upcoming events.
- **Public Meetings** - Periodic public meetings might be held to explain the status and details of the design plan, outline the schedule for upcoming events, and provide an opportunity for the community to ask questions and offer suggestions on the design. If appropriate, these meetings could take the form of small group meetings or neighborhood meetings.
- **Press Release** - A press release might be issued announcing the public meeting on the design plans.
- **Site Tour** - If appropriate, site tours might be conducted for residents, local officials, and the media so they can view the site and gain an understanding of where and how the corrective action technologies might be established.
- **Exhibits** - Exhibits might be established in the community library, town hall, and/or the schools that explain the corrective action process and activities carried out to date, as well as describe the final corrective measure(s) and depict, to the extent possible, how it will be implemented.
- **Briefing** - A briefing might be held for local officials to provide them with specific information on the status of the corrective measure(s) and the schedule of upcoming activities.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

RCRA Milestone: Completion of the Corrective Measures Design

Current Requirements

There are no required public participation activities at the completion of the corrective measures design.

Current EPA Guidance (EPA 1988c)

- **Fact Sheet** - A fact sheet should be issued by DOE that explains the final engineering design of the corrective measure.
- **Public Notice** - A public notice should be issued by DOE to announce the final engineering design.

Suggested Additional Activities

- **Public Meetings** - Public meetings might be held before the corrective measure begins in order to describe the final design plan, outline the schedule for upcoming events, and provide an opportunity for the community to ask questions. If appropriate, these meetings could take the form of small group meetings or neighborhood meetings.
- **Press Conference** - A press conference might be held to brief the media on the final design of the corrective measure and to respond to questions.
- **Site Tour** - If appropriate, facility tours might be conducted for residents, local officials, and the media so they can view the facility and see where and how the corrective measure will be implemented.
- **Briefing** - A briefing might be held for local officials to provide them with specific information on the final engineering design, how it will be implemented, and the schedule of upcoming activities.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

RCRA Milestone: Corrective Measures Implementation

Current Requirements

There are no required public participation activities during implementation of the corrective measure.

EPA Guidance (EPA 1988c)

During the construction stage, EPA recommends public involvement activities that range from group meetings to fact sheets on the technical status of construction, depending on the level of citizen interest.

Suggested Additional Activities

A variety of public participation techniques may be conducted at the beginning, throughout, and at the completion of CMI. As with other technical milestones, the public and local officials need to be kept informed of activities, schedule changes, and new findings at the facility. In addition, environmental restoration project managers and other PSOs and Project Offices with environmental restoration responsibilities may want to ensure that additional information is provided on issues of community concern. These concerns may change over the course of implementing the corrective measure.

- **Fact Sheets** - Fact sheets might be issued periodically to describe progress, schedule changes, and new issues at the facility.
- **Public Meetings** - Public meetings might be held to discuss facility issues. If appropriate, these meetings can take the form of small group meetings or neighborhood meetings.

- **Press Releases** - Press releases might be issued to announce developments at the facility and other events, as well as any public meetings.
- **Press Conferences** - Press conferences might be held periodically to brief the media on the implementation of the corrective measure and to respond to questions.
- **Telephone Hotline** - If community and media interest in the facility is high, a telephone hotline might be installed to provide an opportunity for asking questions and registering complaints about activities.
- **Site Tour** - If appropriate, site tours might be conducted for residents, local officials, and the media so they can view the implementation of the corrective measure.
- **Briefings** - Periodic briefings might be held to provide local officials with specific information on the implementation of the corrective measure.
- **Exhibits** - Exhibits might be established in the community library, town hall, and/or the schools to explain the RCRA process, the functions of the facility, and RCRA activities carried out to date, as to well as describe the progress of the corrective measure.

Ongoing Activities

- Spokesperson, mailing list, newsletter, information repository, and administrative record.

4.1.3 NEPA Milestones and Public Participation Activities

The following requirements are derived from CEQ regulations, SEN-15 (DOE 1990b), and the DOE NEPA guidelines. Figure 4.3 provides a graphic summary of NEPA milestones and public participation activities.

NEPA Milestone: Determine Level of NEPA Review

Current Requirements (SEN-15, DOE 1990b)

Host States and, as appropriate, adjacent States (and host Tribes), should be notified of initial determinations regarding the level of required NEPA documentation (an EA or EIS).

NEPA Milestone: Prepare Environmental Assessment for Proposed Project

Current Requirements (SEN-15, DOE 1990b)

Upon authorization from EH-25, an EA must be provided to host States and, as appropriate, adjacent States (and host Tribes), for a 14-30 day comment period prior to EH-1 (or Secretarial) approval. The length of the comment period will depend on the nature of the project evaluated in the EA and the extent of the analyses contained in the EA.

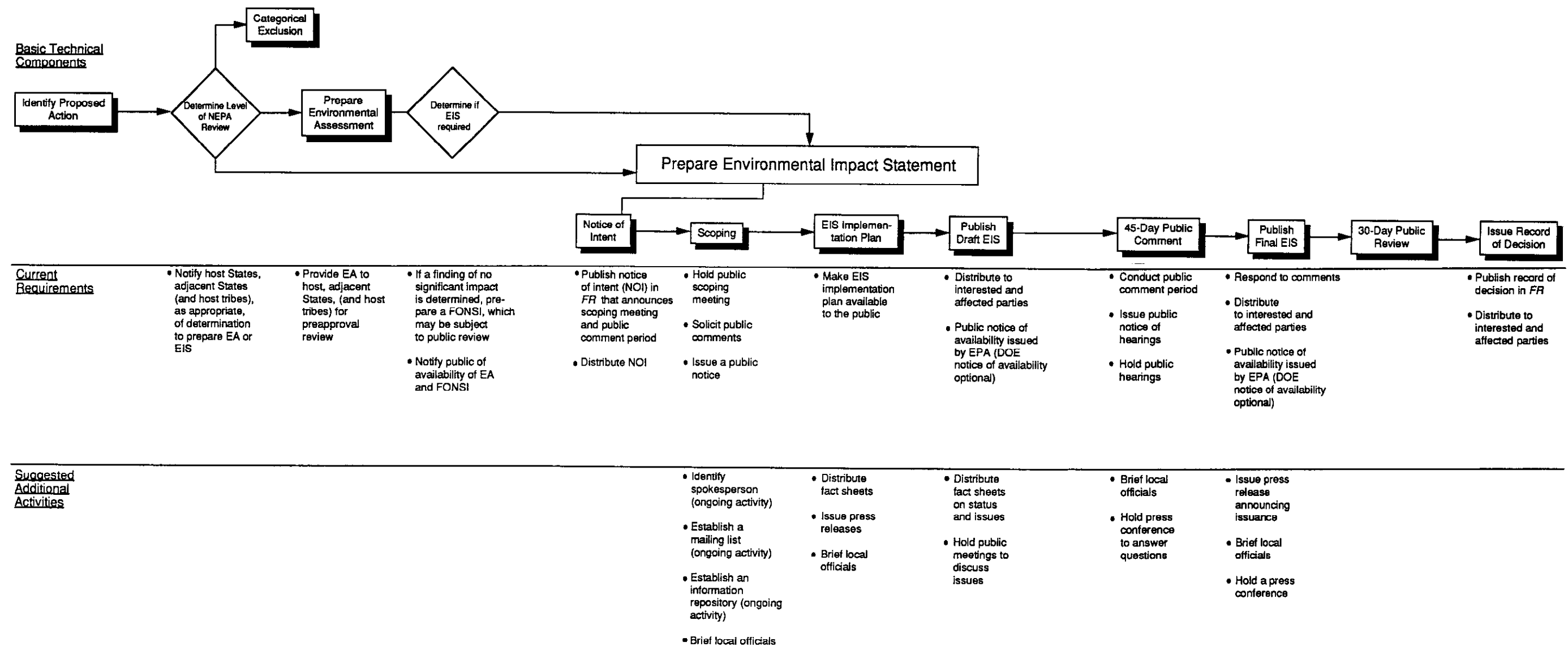


Figure 4.3. Relationship of Public Participation Activities to the NEPA Process

Current Requirements (CEQ)

- If a finding of no significant impact is determined a FONSI must be prepared. In certain situations, a proposed FONSI may be subject to public review and comment.
- When a FONSI is prepared, DOE must notify the public of the availability of both the EA and the FONSI. (The EA or a summary must be included in the FONSI.)

NEPA Milestone: Notice of Intent

Current Requirements (CEQ)

- Notice of Intent - An NOI to prepare an EIS must be published in the *Federal Register* to initiate the EIS process and to announce the public comment period on the scope of the EIS and the details of any public scoping meeting(s).

Current Requirements (DOE NEPA guidelines)

- Document Availability - Distribute NOI to all interested and affected parties.

NEPA Milestone: Scoping

Current Requirements (SEN-15, DOE 1990b)

- Public Scoping Meeting - A public scoping meeting must be held to explain the EIS and the project scope and to receive citizen input to the scope. This is also a good opportunity to answer questions.
- Public Comment Period - The public comment period must be a minimum of 30 days to enable the public to comment and offer suggestions on the EIS project scope.

Current Requirements (DOE NEPA guidelines)

- Public Notice - A notice announcing the scoping meeting must be published at least 15 days before the meeting is held.

Suggested Additional Activities

- Spokesperson - A spokesperson may be identified who will inform the public of EIS-related activities and any other information pertinent to the NEPA project, respond to questions, and provide information to residents and the media. This should be an ongoing activity.
- Mailing List - A computerized mailing list may be established and maintained for the project to ensure that information is disseminated to the appropriate and interested parties. This should be an ongoing activity.
- Information Repository - An information repository may be established near the facility so that all information pertaining to the EIS project can be readily available to interested parties.

- **Briefing** - A briefing may be held to provide local officials with specific information on the NEPA process and the schedule of upcoming activities.

NEPA Milestone: Completion of the Environmental Impact Statement Implementation Plan

Current Requirements (SEN-15, DOE 1990b)

- The EIS implementation plan will be made public for information purposes.

Suggested Additional Activities

- **Fact Sheet** - A fact sheet may be issued that describes the NEPA process, explains the EIS implementation plan, outlines the proposed project schedule, and tells who to contact for further information about the project.
- **Press Release** - A press release may be issued to the media and those on the mailing list, announcing the completion of the EIS implementation plan.
- **Briefing** - A briefing may be held to provide local officials with specific information on the EIS implementation plan and the schedule of upcoming activities.

Ongoing Activities

- Spokesperson, mailing list, and information repository.

NEPA Milestone: Release of Draft Environmental Impact Statement

Current Requirements (CEQ)

- **Document Availability** - Distribute draft EIS to all interested and affected parties before filing the draft EIS with EPA. Details on the public hearing could be provided when the draft EIS is distributed.
- **Public Notice** - A public notice of availability will be published by EPA in the *Federal Register* announcing the availability of the draft EIS.

Suggested Additional Activities

The completion of a draft EIS can take several months of technical studies. While the draft EIS is being written, there are numerous public participation activities that may be useful and appropriate. Some of these are listed below:

- **Fact Sheets** - Fact sheets might be issued periodically to describe the status of the draft EIS, related activities, and new issues as they arise.
- **Public Meetings** - Public meetings might be held to discuss issues pertaining to the EIS project. If appropriate, these meetings can take the form of small group meetings or neighborhood meetings.

NEPA Milestone: 45-Day Public Comment

Current Requirements (CEQ)

- **Public Comment Period** - A minimum 45-day comment period must be conducted by DOE to enable the public to review the document(s) and make written and/or oral comments to DOE. The 45-day period begins with publication of EPA's notice of availability in the *Federal Register*.
- **Public Notice** - DOE should provide public notice of details on the public hearing(s) for the draft EIS.

Current Requirements (SEN-15, DOE 1990b)

- **Public Hearings** - A public hearing must be held to receive comments on the draft EIS.

Current Requirements (DOE NEPA guidelines)

- Notice must be published at least 15 days before the hearing is held.

Suggested Additional Activities

- **Briefing** - A briefing might be held to provide local officials with specific information on the draft EIS.
- **Press Conference** - A press conference might be held to brief the media on the draft EIS and to answer questions.

Ongoing Activities

- Spokesperson, mailing list, and information repository.

NEPA Milestone: Issuance of Final Environmental Impact Statement

Current Requirements (CEQ)

- **Response to Comments** - A response to comments must be prepared and included in the final EIS. It must provide DOE responses to comments received during the public comment period on the draft EIS and during the public hearing. Substantive comments must also be attached to the final EIS.
- **Document Availability** - Copies of the EIS must be distributed to the public before filing the final EIS with EPA.
- **Public Notice** - A public notice of availability will be published in the *Federal Register* by EPA.

Suggested Additional Activities

- **Press Release** - A press release may be issued to announce issuance of the final EIS.

- **Briefing** - A briefing may be held to provide local officials with specific information on the final EIS, such as significant changes made from the draft EIS.
- **Press Conference** - A press conference may be held to brief the media on the final EIS and to answer questions.

NEPA Milestone: 30-Day Public Review

Current Requirements (CEQ)

- **Public Review Period** - A minimum 30-day review period must be allowed to enable the public to review the final EIS prior to the issuance of the ROD. The 30-day period begins with the publication of EPA's notice of availability in the *Federal Register*.

NEPA Milestone: Issuance of Record of Decision

Current Requirements (DOE NEPA guidelines)

- **Record of Decision** - DOE must publish the ROD in the *Federal Register* and make it available to the public.
- **Document Availability** - Distribute the ROD to all interested and affected parties.

4.2 PUBLIC PARTICIPATION ACTIVITIES, APPENDIX A

The key to successful public participation is targeting activities to the distinctive needs of the community. Therefore, not all of the activities and techniques described in Appendix A are appropriate during every CERCLA response, RCRA corrective action, or NEPA review process. The applicability of specific activities will depend on the characteristics and needs of the community, as well as the availability of DOE resources. Appendix A provides key points to remember when conducting the activities in the context of a CERCLA, RCRA, or NEPA process. It does not provide an exhaustive list of public participation activities, nor does it provide every detail one must have for successful implementation of an activity. It is based, in part, on Appendix A of *EPA's Community Relations in Superfund: A Handbook* (Interim Guidance) (EPA 1988a) and includes several additional suggestions. The discussion of each activity includes, but is not limited to, the following:

- a description of the activity
- its purpose
- techniques to implement the activity
- when to conduct the activity

- **identification of related or accompanying activities**
- **benefits and limitations of the activity.**

Specific information is provided on how to conduct the following public participation activities:

Section A.1 - Briefings

Section A.2 - Community Interviews

Section A.3 - Community Relations Plan or Public Involvement Plan

Section A.4 - Exhibits

Section A.5 - Fact Sheets

Section A.6 - Formal Public Hearings

Section A.7 - Information Repository and Administrative Record

Section A.8 - Mailing List

Section A.9 - Newsletter

Section A.10 - Press Conferences

Section A.11 - Press Releases

Section A.12 - Public Comment Period

Section A.13 - Public Meetings

Section A.14 - Public Notices

Section A.15 - Responsiveness Summary

Section A.16 - Revision of Community Relations Plan or Public Involvement Plan

Section A.17 - Site Tours

Section A.18 - Small Group Meetings

Section A.19 - Spokesperson

Section A.20 - Telephone Hotline

Section A.21 - Workshops.

5.0 CURRENT AND EMERGING PUBLIC PARTICIPATION ISSUES AND CONCERNS

Implementation of the environmental restoration public participation program on a nationwide basis poses some tremendous challenges to DOE staff, from an organizational as well as a political and technical point of view. Some of the organizational challenges have been highlighted and discussed in previous sections. The purpose of this section is to focus on some of the political and technical issues relevant to the environmental restoration program that DOE facilities are currently or soon will be facing, with some suggested approaches for addressing these issues. How well DOE responds to these issues, with the guidance and assistance of the environmental restoration and public participation staff, will be key to its efforts to establish and maintain its credibility with the public. The more directly these issues are confronted, the greater opportunity DOE has for improving its credibility in the area of environmental restoration.

The following seven issues will be discussed in this section:

1. managing concurrent public participation activities for multiple remedial investigation/feasibility studies
2. planning for and ensuring interagency coordination of public participation activities among DOE and other regulatory agencies (EPA, State, and local)
3. addressing the public concern that DOE is the agency responsible for both the initial contamination problem and the facility cleanup
4. handling public concern regarding Tiger Team findings
5. keeping meetings and events focused on only those topics that relate to DOE's environmental restoration activities
6. handling public concern about lack of methods for mixed waste disposal
7. discussing the extent to which DOE facilities are planning for and implementing waste minimization programs.

5.1 MANAGING CONCURRENT PUBLIC PARTICIPATION ACTIVITIES FOR MULTIPLE REMEDIAL INVESTIGATION/FEASIBILITY STUDIES

5.1.1 Discussion

Some DOE facilities have a number of RI/FSs under way at distinct parts of the sites known as operable units. Separate RI/FS documents and accompanying community relations activities are conducted for each unit. Particularly where there are a number of such studies under way, it can be confusing to the community, as well as logistically difficult for DOE staff, to manage the public participation requirements of each of these projects.

5.1.2 Approaches

Following are some points to keep in mind when planning a public participation program under this circumstance:

- Integrate public participation activities where possible.
- Recognize that communities do not see the same technical activity divisions that DOE environmental restoration staff see.
- Group a discussion of all of the RI/FSs in the same initial public meetings. Because the public views the site as a whole, it often makes sense to group information about different RI/FSs together for presentation in a public forum. This will depend, of course, on technical considerations and schedules.
- Use a newsletter or a fact sheet to provide updates on all RI/FSs under way at a facility. A frequently updated chart might also be used to enable people to follow progress on multiple, but related, projects. (This guidance assumes using an existing newsletter; see Appendix A.)
- Whenever possible, use a consistent format for publications so that the community recognizes the publication to be from the environmental restoration program. Each update should provide information on what has happened, what is happening, and what is going to happen.
- Think about conducting open houses and informal workshops prior to each RI/FS public hearing to help the public understand the problems of each operable unit and to provide a better information flow before formal comments are requested.
- Recognize that complicated projects of this sort require strong leadership to enable the various DOE staff to work together as a large team.
- Centralize oversight of public participation activities and designate one project spokesperson. Ensure frequent communication between the public participation staff and the DOE technical staff (e.g., regular meetings/internal newsletters). In order for the community to have confidence and for the facility to have credibility, it must be clear to the community that cooperation and communication are ongoing and two-way.
- If it is impractical to have one project spokesperson, make extra effort to ensure that all spokespersons are aware of general community questions and concerns.
- To facilitate consistent responses and avoid "no comment" responses to the public, develop and update written question and answer memos.

5.2 PLANNING FOR AND ENSURING INTERAGENCY COORDINATION OF PUBLIC PARTICIPATION ACTIVITIES AMONG DOE AND OTHER REGULATORY AGENCIES (EPA, STATE, AND LOCAL)

5.2.1 Discussion

A number of local, State, and federal agencies may be involved in supporting or overseeing environmental restoration activities at federal facilities. These include the EPA; U.S. Army Corps of Engineers; Agency for Toxic Substances and Disease Registry; State and local health, environmental, and public works departments; and State and local water boards. The interagency agreement or FFA should delineate specific areas of responsibility and outline a framework for the regulatory agencies' monitoring of DOE investigation, cleanup, and corrective action activities (with schedules for submission and review of site-related documents). Nonetheless, the mere existence of this agreement does not ensure that relations will go smoothly among all parties concerned. Those charged with running the public participation program have a particular stake in interagency coordination in both the technical areas and in public participation, since it is important for the public to see that DOE and the regulators are working together, rather than at cross-purposes.

5.2.2 Approaches

Because one or more of the cooperating agencies often have had prior involvement at a federal facility site and may have been prior points of contact for the public, it is important that the community be informed of any changes to this arrangement and that every effort be made to provide a consistent public participation program. There may also be instances where both DOE and one or more of the regulators will have ongoing responsibility for different aspects of a public participation program. Again, every effort should be made to present a consistent public participation program to the community.

In the early stages of the technical and public participation planning process, close attention should be paid to clearly delineating responsibilities among the agencies as follows:

- Spell out public participation responsibilities in the FFA in as much detail as possible. Clearly state which agency/agencies will be responsible for the various public participation activities. Build cooperative relationships into these agreements. For example, consider issuing joint press releases with the regulators for significant technical milestones such as issuance of the RI/FS or opening of the public comment period. Similarly, consider agreeing to interagency review of any public participation plans and materials (both DOE-prepared and those prepared by the other agencies).

As the project progresses, there are a number of steps to be taken to ensure the continuation of smooth working relations with the agencies:

- Ensure that, as a matter of course, public participation staff serve on any technical review committees established as part of the FFA.
- Communicate early and often with the regulators. Keep regulators informed of everything being done in the area of public participation. Urge technical and management staff to do the same.

- Understand the problems and constraints under which the regulators must operate. Give them a "heads up" on anything related to the environment that is expected to become known to the public, Congress, or to the State legislature (e.g., the annual environmental report). Do so without being asked; no one likes surprises.
- Give the regulators access to the public participation process. Invite them to participate in your public meetings.
- Exhibit an attitude of cooperation and a willingness to act on suggestions from the agencies to help establish and maintain effective working relationships.
- Keep meticulous records of public involvement activities and conversations/interactions with the regulators on public participation subjects, because DOE Headquarters or some outside agency may at some time request a reconstruction of public participation activities and understandings reached with the other regulators.

5.3 ADDRESSING THE PUBLIC CONCERN THAT DOE IS THE AGENCY RESPONSIBLE FOR BOTH THE INITIAL CONTAMINATION PROBLEM AND THE FACILITY CLEANUP

5.3.1 Discussion

Some members of the public who are interested in environmental restoration activities at DOE facilities may be suspicious that the information distributed by DOE is biased or presents a "sanitized" depiction of site conditions, operations, or other problems. This is a particular problem when it comes to releasing figures concerning public health risk assessments or when describing an operation's impact on the environment. Although DOE may not be wholly responsible for the contamination problem (i.e., in instances where other federal agencies predated DOE's occupancy of the site), it is DOE policy to take the lead on the cleanup. Thus, as far as the public is concerned, DOE is responsible for the contamination problem, which can (under some circumstances) undermine the credibility of DOE's public participation program during the cleanup process.

5.3.2 Approaches

DOE staff should emphasize the oversight role performed by the local, State, and federal regulatory agencies in all public participation outreach materials. Encourage the public to be in contact with the regulators. Publicize contact names and telephone numbers. However, in so doing, be careful not to overemphasize the role of the regulators and FFAs to the detriment of DOE's own commitment to doing a good job. Indeed, in some instances, the facilities may decide to do more than what is required by the regulators in order to thoroughly inform the public of efforts to protect human health and the environment.

Public participation materials and meetings should explain what it means to have the regulators involved. For example, DOE facility RI/FS documents might be reviewed by EPA or state hydrogeologists, toxicologists, engineering contractors, and CERCLA management. In their role as the agency (usually) with lead responsibility for overseeing site cleanup activities, EPA or the State provides DOE facilities with guidance and assistance and ensures that the facilities comply with all appropriate regulations. The regulators also periodically accompany DOE staff during sampling activities and perform independent sampling activities.

Emphasize that the investigation process followed by the federal facilities is essentially the same as it would be if EPA or a private-sector responsible party was performing the investigation because private contractors are generally hired in all three instances to assist with the investigation and conduct the sampling activities.

signed and certified analyses back from the contract laboratories, the facilities then distribute copies to all of the regulators to review.

5.4 HANDLING PUBLIC CONCERN REGARDING TIGER TEAM FINDINGS

5.4.1 Discussion

When Secretary Watkins announced in June of 1989 that he was organizing groups of experts (Tiger Teams) to visit and assess all of the DOE facilities from the standpoint of environment, safety, and health (ES&H) compliance and management, he set into motion a process designed to uncover the ES&H weaknesses of each major DOE facility. Moreover, since the results of the Tiger Team visits are contained in reports that are available to the public, this self-assessment has been conducted in a highly public forum. DOE and its facilities have been the subject of serious and protracted criticism in the area of ES&H. Much of this criticism has been leveled at EM programs. The "good news" of the Tiger Team process--namely, that the reviews provide the basis for the improvement of facility operations--is easily obscured as these findings become public.

The Tiger Team reports present detailed, concerted ES&H program reviews on a facility-by-facility basis. Thus, in the short run, DOE facilities (and the environmental restoration programs in particular) are in the spotlight as findings become public. In the long run, however, the Tiger Team process is a potentially positive factor for the facilities because the investigations have been conducted in an open and wholly candid manner and may result in important positive changes.

5.4.2 Approaches

In keeping with the spirit of the Tiger Team process, facilities should present to the public both the positive and negative aspects of the findings. Most importantly, facilities should be candid about the fact that past practices were not always adequate in terms of current regulatory requirements and emphasize that they are now taking steps to address the deficiencies and turn things around. The Tiger Team reports and action plans provide site-specific blueprints on how to do this.

Some Field Offices have been holding press conferences when the Tiger Team report and action plan are released. A public meeting following the approval of an action plan is desirable. DOE facilities or Field Offices also may want to produce a fact sheet for distribution at meetings and in response to information requests. In doing so, the community is able to get an overview of DOE's efforts to address environmental problems, and the credibility of DOE and its facility is enhanced.

5.5 KEEPING MEETINGS AND EVENTS FOCUSED ON ONLY THOSE TOPICS THAT RELATE TO DOE'S ENVIRONMENTAL RESTORATION ACTIVITIES

5.5.1 Discussion

For some communities located near a DOE facility, the public participation components of the environmental restoration program have provided the first real opportunity for the public to communicate directly with DOE officials and facility managers. In many cases, public concern about DOE operations goes beyond the facility's current impact on public health and the environment. One common question that DOE managers confront is the validity of the DOE facility's "mission" (e.g., nuclear defense). Thus, public participation and program staff sometimes find themselves in public meeting situations where some meeting participants want to engage in a dialogue about issues that are not directly related to environmental restoration activities.

5.5.2 Approaches

The purpose of every meeting and event should be stated up front--both in the advance publicity (including agendas) and at the beginning of the meeting. The moderator or facility spokesperson should clearly state the meeting's purpose and topics under discussion. For environmental restoration-related meetings, DOE must make it clear that the purpose of the meeting is to provide information on and seek input regarding only those issues that fall under the scope of the environmental restoration program. Such a meeting is not the appropriate forum for discussion of other topics (e.g., examining the facility's mission). DOE serves the interests of its meeting participants by being firm on this point.

If inappropriate questions are raised in a meeting, the moderator/facility spokesperson should acknowledge the concerns, but 1) restate the purpose of the meeting and 2) refer the question, for later discussion, to the appropriate DOE facility official or Congressional representative with whom that issue can be more appropriately discussed. Although this approach will not necessarily satisfy those who wish to engage in a broader discussion, it will be recognized as a "fair" and credible way of dealing with the issue.

Especially when the facility's mission is being attacked, under some circumstances it may be helpful to emphasize that DOE understands that it is no longer enough to satisfy its defense and energy missions, but that it must do so in an environmentally "safe" manner. DOE is committed to balancing its national defense and energy mission priorities with the equally important priorities of environmental and health protection. DOE facilities nationwide are in the process of effecting a significant "cultural change" to that effect.

For DOE facilities whose operations have been particularly controversial, DOE Field Offices and facility managers may want to consider establishing a community forum to provide ongoing opportunities for the community (elected and local officials, business leaders, environmental groups, and others) to discuss and try to resolve issues that go beyond the scope of the environmental restoration program. DOE should be willing to discuss these controversial issues and set up a specific time and place to do so. Not only will the community see that DOE is making a good faith effort to resolve issues cooperatively, but it will also provide a constructive forum for questions inappropriately raised at environmental restoration meetings.

Establishing such a forum can be highly effective if the group's purpose (i.e., information exchange, issue resolution, or advisory) is agreed upon by all group members and DOE is able to devote sufficient resources to keep it functioning. Also, if the purpose of the forum is to resolve issues, DOE and the facility managers must be willing to engage in discussion of controversial topics and negotiation of some policy decisions.

5.6 HANDLING PUBLIC CONCERN ABOUT LACK OF METHODS FOR MIXED WASTE DISPOSAL

5.6.1 Discussion

Of all the challenges that DOE public participation and technical staff face, this issue is one of the most difficult. Clearly, this waste disposal dilemma will need to be resolved at the national level, involving at least EPA, DOE, and the affected States. In the interim, decisions are being made on a facility-by-facility basis, with most facilities simply storing the wastes or seeking permission to ship them to certain facilities for treatment or storage prior to burial. Neither option has proven to be especially palatable to environmental groups or to some DOE facility communities.

5.6.2 Approaches

Until the federal government agrees on a national plan for the treatment and disposal of mixed waste, individual DOE facilities will need to be as forthcoming as possible about the regulatory and technical dilemmas in which they are caught at this time, while emphasizing that environmental protection is of utmost importance. Following are three key messages that DOE staff should communicate to the public concerning this

1. DOE considers its responsibility to protect human health and the environment to be as important as its program missions (e.g., energy and defense), and this is uppermost in the mind of DOE staff as they work to resolve this issue.
2. There is no clear solution to DOE's mixed waste management dilemma at the present time. Furthermore, the scientific community as a whole has yet to arrive at optimal solutions to the problem of mixed waste treatment and disposal.
3. Given points 1 and 2, describe what DOE is doing in the interim to safely handle, store, and dispose of the mixed waste that it is generating. Elaborate on these processes.

Many people will be satisfied that, although it does not have all the answers, DOE is discussing the problem and keeping public health and environmental protection as top priorities. However, for those who are especially sensitive about this issue or who believe that operations should cease until the issue is resolved, DOE staff will need to go above and beyond those messages and engage in a dialogue with the community about the problem. Go out and ask the community what it is about this issue that concerns them. Do not assume to know their concerns until they have been asked. It is possible, for example, that they will accept long-term storage as long as the facility is aggressively pursuing waste minimization. In addition to directly raising the issue in meetings with the community, all DOE staff who are in contact with the public should keep a list of concerns as they arise and funnel the concerns to the DOE public participation contact.

During the course of this dialogue with the community, DOE must be prepared to recognize the validity of community concern surrounding this issue. Suggesting that DOE facilities curtail mixed waste-generating operations until treatment and disposal alternatives are guaranteed is a position that DOE is likely to continue to hear. DOE can acknowledge the validity of this position, while still recognizing that it believes safe methods for handling mixed waste can be used until alternatives become available. By acknowledging other views, DOE enhances its own credibility and continues the opportunity for dialogue.

Although the community's needs will not be known until it is questioned, some information that can be communicated is listed below:

- The issue of mixed waste is being studied seriously at the national level and until this is resolved, some individual facilities are looking for better alternatives. Give examples and share information from these studies.
- Efforts are being made to resolve the issues with regulators. DOE should communicate any ongoing efforts with affected regulators so the public is aware that the appropriate regulators are informed and involved in approaches to attain regulatory compliance.
- Discuss technical details of mixed waste storage: how it is done, where, for how long, how the regulatory agencies are involved in the permitting and oversight of this process, safety issues, accident scenarios and emergency response plans, and other pertinent issues.
- Discuss health risks associated with mixed waste storage: why DOE considers storage to be a safe alternative. Possibly conduct a risk assessment for this option and compare it with the next best option. Present the results in a workshop or series of workshops.
- Give programmatic rationale for continuing to generate mixed wastes (i.e., national defense and energy interests) and historical precedents for this kind of behavior.
- Describe waste minimization efforts and programs, especially as they pertain to mixed wastes. For communities to be inclined to accept DOE's position of ongoing generation, DOE will likely need to show real progress toward improving the management and minimization of its waste streams.

5.7 DISCUSSING THE EXTENT TO WHICH DOE FACILITIES ARE PLANNING FOR AND IMPLEMENTING WASTE MINIMIZATION PROGRAMS

5.7.1 Discussion

In the last several years, the value of waste minimization, as at least a partial solution to our nation's environmental problems, has gained increasing technical and popular recognition. Local and national environmental groups have made it clear that, for new waste management projects to gain their acceptance, businesses and governmental entities (such as DOE) must show measurable progress toward meeting waste minimization goals. It is critical that DOE publicize its commitment to waste minimization, given the concerns that some members of the public have about DOE's ability to both protect the environment and pursue its programmatic mission.

5.7.2 Approaches

If a facility has already begun implementing a waste minimization program, public participation and program staff should have at their fingertips facts and figures about the program. It is very important that DOE facilities have a fact sheet available on this subject. Some of the information that communities have asked for in the past is listed below:

- **definition of waste minimization:** for example, 1) source reduction--activities that reduce or eliminate the generation of waste, and 2) recycling--the use, reuse, or reclamation of previously generated waste material
- **how long the program has been in effect and the nature of the program**
- **the extent to which the facility has characterized all current sources of wastes and the nature of the waste streams**
- **waste minimization goals, for example, 25% reduction in waste by the year 2000, over what would otherwise have been generated in that year had no program been in place**
- **waste minimization objectives relative to environmental restoration activities at the site**
- **program results:** examples of "before and after" figures. Ideally, present information about some of the products that have been substituted for hazardous/mixed waste constituents, and discuss how processes have been changed to result in the generation of less waste.

For facilities that have not yet implemented a formal waste minimization program, DOE staff should be prepared to explain why and what plans are under way to do so. Addressing the issue directly offers an opportunity to show that DOE is thinking ahead about environmental protection, which will further enhance its credibility.